[Mr. K. George.]

fact that, on the Quilon-Trivandrum railway, the rails are more flimsy than on the other Section. That was because, when the estimate was sanctioned, it was thought that a lower weight of rails than that used for the Shencottah-Quilon railway would be enough for the purpose. So rails of lower weight were used. As regards the valuing of railway lines, that also is not a feasible proposition. What is done as I said in regard to the expenditure on Kodayar Project is to have a sort of depreciation account. Recently, the Government of India have decided that there should be a depreciation fund opened for railways to be used for the purpose of renewals. So, our railway would come under the general railway system and there will be a depreciation fund for it from which renewals will be met. I suppose the member understands now why there is no need for our valuation of the railways.

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): What is the interest realised upon the sum invested in the Kodayar Project?

MR. K. GEORGE (*Chief Secretary to Government*): It is published every year in the statistical tables.

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): Under the circumstances explained, I beg leave to withdraw the motion.

The motion was, by leave of the House, withdrawn.

The question that the sum of Rs. ·98 lakh be granted under Demand X—General Administration—Account Office, was then put to the vote of the House and carried.

The grant was made.

DEMAND XI.—ADMINISTRATION OF JUSTICE—
JUDICIAL DEPARTMENT—7·08 LAKHS.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I move for a grant not exceeding Rs. 7·08 lakhs under Demand XI—Administration of Justice,—Judicial Department and Additional Head Sirkar Vakil's Office.

16 A—ADMINISTRATION OF JUSTICE—HIGH COURT.

Motion 256.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Sir, I beg to move the following motion:—

256. To reduce the allotment of Rs. 44,552 for Establishment by Rs. 100.

Sir, I had expressly put down that the object of the motion was to find out the nature of the work assigned to the Deputy Registrar, High Court. It is the general opinion that the Salaries Committee had recommended the abolition of the post of the Deputy Registrar in the High Court. The post was continued in spite of the recommendation. A vacancy had recently arisen and it is said that the Chief Justice made a recommendation that the vacancy should not be filled up for some

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time. The vacancy having been filled up, I should like to know the nature of the work that has been assigned to the Deputy Registrar. The cry all over the country is that the expenditure on normal routine functions of the Government is steadily increasing, increasing out of all proportions to the proved necessity. Here is an instance of an officer being paid and the acting Chief Justice being not able to find work for him. I am proceeding on the assumption that the Chief Justice said so and I should like to hear what the Law Member has to say in regard to that.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It is no doubt true that the Salaries Committee recommended the abolition of the place of the Deputy Registrar or that of the Manager in the High Court. But the then Chief Justice strongly urged the retention of both the places. Having regard to the nature of the work, the Government accepted the recommendation of the then Chief Justice and so, both the places were sanctioned and they happened to be filled up regularly and the last appointment of Deputy Registrar was made at the instance of the permanent Chief Justice Mr. Chatfield before he went on leave. Subsequent to that, the acting Chief Justice Mr. Raman Tampi recommended for the consideration of the Government the abolition of the Deputy Registrar's place, and immediately after that, he also sent a revised recommendation that the appointment might be held in abeyance for three months. Thereupon, the Government considered that a lasting change like the abolition of a permanent place should not be brought into effect without taking the opinion of the permanent Chief Justice also.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I know whether the recommendations of the acting Chief Justice is with the member now?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, I have.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): Will the House be given an opportunity to know what are the recommendations of the acting Chief Justice?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I gave the purport of the recommendation. What he says is that it is possible to get on with the work of the High Court office without a Deputy Registrar. Even before that, a permanent Deputy Registrar had been appointed on the recommendation of the permanent Chief Justice and he had also said that the work of the Deputy Registrar is onerous implying thereby that that post is necessary. The Government, therefore, decided that the place should be retained until the return of the permanent Chief Justice. In regard to the specific point raised in the notice of motion, namely, the work of the Deputy Registrar, I have information that he is now in charge of the library, the preparation of Reviews and Administration Reports, the calling for and submission of periodical returns at the end of each month to each of the Judges, the preparation of correct gradation lists of the Judicial Department, the

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[Mr. Kayyalam Paramesvaran Pillai.]

signing of letters "for Registrar", *i. e.*, for these and other purposes. The Deputy Registrar has also control of the Copying, the Old Records, the Typists' and Decree Sections. These are the duties of the Deputy Registrar as laid down by the late Chief Justice Mr. Viraraghava Aiyangar. As a matter of fact, however, the Deputy Registrar was in charge of only the boarding of cases which now has been entrusted to the Manager, while the Deputy Registrar has been put in charge of the works as mentioned before.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): May I know whether these works were done by his predecessor?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): His predecessor was attending only to the boarding of cases.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): What is the scale of pay of the Deputy Registrar?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Rs. 150 to Rs. 200.

MR. K. SIVARAMA PANIKKAR (*Shartallai*): May I know whether the acting Chief Justice has not got equal powers so long as he is in office, in the matter of suggesting the abolition of an unnecessary office?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): He has, no doubt, in a strict sense. But when a permanent change is to be effected, it is advisable to have it done in consultation with the permanent Chief Justice lest he should be handicapped when he returns and resumes charge of his office.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Did not the acting Chief Justice expressly say that there is no work for the Deputy Registrar?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): He does not say so in so many words. But he does say that the post of the Deputy Registrar may be abolished and along with it he recommended the appointment of one additional clerk.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): What does he mean by saying that the post may be held in abeyance for three months?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That means that an experiment may be made, I think, with a view to final abolition.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I know what was the work that the permanent Chief Justice had in view when he said that the work was onerous?

MR. KAYYALAM PARAMESVARAN PIALAI (*Additional Head Sirkar Vakil*): It is not possible to say what exactly he had in mind then. But the Deputy Registrar appears to have been attending to the boarding of cases.

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MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Are the duties now done by the Deputy Registrar onerous in the members' opinion?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): In that matter, we must give weight to the opinion of the Chief Justice.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): Who passed orders on the Ag. Chief Justice's recommendation?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The Government.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): Was it during the time of the Dewan or the Ag. Dewan?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It was during the time of the Ag. Dewan.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Why should the Government ignore the recommendation of the acting Chief Justice?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It was not ignored. It was given due consideration. The Deputy Registrar was appointed in accordance with the recommendations of the permanent Chief Justice. It is after that that the acting Chief Justice suggested the abolition of the post of Deputy Registrar, and as I said already, the suggestion cannot be given effect to until the permanent Chief Justice's opinion is also taken.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): That means the member is making a distinction between the permanent and acting Chief Justice.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, to some extent. The acting officer will be there only for a short period.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Is not the case similar with the acting Dewan also because he was looking to the duties of the Dewan only for a short time, and yet he passed orders?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The Government passed orders. And the orders were to maintain the existing state of things and not for effecting any change.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): If there is any difference between the decision of the acting Chief Justice and the permanent Chief Justice, why not a difference also be made in the decision of the acting and the permanent Dewan?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That is why I said that the orders were passed by the Government though during the time of the acting Dewan.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): May I know, whether such a recommendation was not made from the High Court?

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MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The recommendation in question is not a recommendation of the High Court; it was a recommendation of the acting Chief Justice.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Is it not a case of the head of an office saying that he does not want a particular post and the Government thrusting it upon him?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): We cannot view it quite like that. The acting Chief Justice has made but a tentative recommendation and has but suggested a trial for three months.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): The Government cannot anticipate what his final word would be.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): He said that he wanted to try it only for three months.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): On account of that, the member cannot say he wanted the post to remain after the lapse of three months. How can he say that after three months the acting Chief Justice would want that place to be filled up?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): When there is a permanent incumbent for the place and the permanent Chief Justice's opinion has to be taken before deciding on the abolition of the place, what can we do?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): May I know how long the Deputy Registrar's post has been in existence?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): For nearly half a century, I think, although formerly it existed in the name of Sheristadar.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I know whether the acting Chief Justice or the permanent Chief Justice is concerned with the work of his office or the number of hands in his office?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The acting Chief Justice is concerned only with the work in his office.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): In the light of the recommendation, is it necessary to keep a hand without work?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): There is no hand without work. He is doing the work that I have already mentioned, which is in accordance with the *written* instructions of the late Chief Justice Mr. Viraraghava Aiyangar.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Could not the present Deputy Registrar be transferred to some other department during the experimental period of three months?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That is not practicable.

PRESIDENT: Mr. Madhavan Pillai, that is not relevant to the particular motion, namely, establishment of the High Court.

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MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): We have got a superfluous man who has got to be disposed of some way.

PRESIDENT: The Law member has read out to you and explained in detail the amount of work which the Deputy Registrar actually does.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Does it mean that the recommendations of the acting Chief Justice are not of any concern?

PRESIDENT: There is difference between the acting Chief Justice and the permanent Chief Justice. Recommendations are made to the Government in a confidential capacity.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): The appointment is said to be not wanted and a recommendation has also been made to the Government to that effect. But the Government are still continuing the appointment and putting the taxpayer to the necessity of paying an officer who has no work.

PRESIDENT: That point had been amply answered.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): Sir, on hearing the member in charge of this motion, we are not satisfied as to the necessity of keeping a hand without work. On a general policy, it is not worth while to spend money for a hand to be maintained without doing any work. The country is so poor and there is a cry all round that the expenditure on the service is very high. Here is a specific instance in which the departmental head who is fully aware of the work in his department says there is no use in keeping a particular post without work. In spite of the recommendations of the Chief Justice, we do not know for what reason the Government retain the post when the head of the department says that the office can be abolished without any serious evil to the routine work of the department. We cannot understand why this office should be kept there. There are so many pressing matters which we have to postpone on account of want of money. Here is an instance where we do not require a particular office but the Government thrust an officer upon a person who does not want him. May I ask the Government whether it is justifiable? When a Departmental Head comes forward with a scheme, we say that we have no money to pay for the additional staff and that we are not in a position to oblige him because the necessary money is not forthcoming. Under the circumstances, I fail to understand the position adopted by the Government in this specific instance. That is a question which ought to be answered in a more satisfactory way by the Government. With these few words, I support the motion of Mr. Madhavan Pillai.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I also support the motion brought forward by Mr. K. Madhavan Pillai. Here tables appear to have been entirely turned so far as I can see from the nature of the correspondence which my friend the Law member has been good enough to place before this House. The usual order is for officers to call for more hands to carry on business in their offices. Here the Chief Justice, though only an acting Chief Justice, said that he does not

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[Mr. P. K. Narayana Pillai.]

want a particular hand and that he is prepared to make a trial whether he can carry on business without that officer. The Government would not leave the Chief Justice to his view there. They say that he must necessarily have an officer more to carry on business connected with his office. Again, I beg to submit that the creation of a Deputy Registrar itself was an interim creation. The High Court got first of all a Registrar, then it was found necessary to have a Deputy Registrar.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): May I ask the member whether there was not a Sheristadar before that time?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): There was one.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): May I ask him whether it is that officer that, later on, became known as Deputy Registrar?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): There was a Manager already. If the multiplication of posts is to be encouraged, the next step would be to ask for a Deputy Manager and then, going on at this rate, we will have to come to the posts of clerks and deputy clerks. That is the way that multiplication of offices goes. In the interests of economy, it ought to be the interest of the Government to accept and clutch at any offer from any officer which would pave the way for curtailment of the hands in his office. My friend read out certain duties as falling to the share of the Deputy Registrar, such as the preparation of the annual report and so forth. Now, even if a deputy to the Deputy Registrar is created, work may be found for him, for a portion of the work may be reserved for the Deputy Registrar and the rest may be given to the Deputy Deputy Registrar. So, in that way, it is quite possible to create work for officers. The question is whether, in the interests of economy, there has been a fair trial of the proposal of the acting Chief Justice. My submission is that there has not been. The Government would not even allow a trial to be made.

I am submitting this also with a view to the reduction of the hands for such establishment, so that I may propose some means and ways when we come to the question of the revision of the pay of the schoolmasters for which a committee has been appointed and I have been put on the committee. I am of opinion that such opportunities, when offered, should be laid hold of at once and the money saved thereby should be used in the cause of the betterment of the lot of the schoolmasters. I may say at once that I have absolutely nothing to say against the present incumbent in the place of the Deputy Registrar. It is only a question of principle and it ought to be readily accepted when an officer is prepared to come forward with a proposal for the reduction of the hands in his establishment.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): What about the recommendation of the permanent Chief Justice?

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MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): He has not considered the question of the need or otherwise of the particular post. In routine fashion, he has said that the Deputy Registrar's place might be continued.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Has he not said that this post is necessary when the matter of abolishing it was referred to him?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): That was years ago when the accumulation of work in the High Court was very much and then the Deputy Registrar used to attend to the boarding of cases.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Did not the Salaries Committee recommend the abolition of the post?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Yes.

MR. K. SIVARAMA PANIKKAR (*Shertallai*): Added to it, does not the recommendation of the acting Chief Justice carry some more weight?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Certainly it does. Even on independent merits, I am prepared to urge that the recommendation of the acting Chief Justice has not suffered in its weight.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): What does the member say as regards the suggestion put forward by the Law Member that when the Chief Justice returns he might find himself handicapped thereby?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Then the Government may come before this House with a supplementary demand saying that the permanent Chief Justice says that he cannot get on without a Deputy Registrar and it should be provided for. That would be only after six months. For these six months, at the rate of Rs. 150 a month, the Government can save Rs. 900 and there would be a gain to that extent to the State.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Till then, what should be done with the person who has already been appointed in that place?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): He may be asked to do some other work or he may be asked to take leave on half pay or do something of the sort. So, I support the motion.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): Sir, some question of principle has been raised in the case, *viz.*, whether it is not advantageous to economise when a recommendation proceeds from the head of a department. If we go by that, there is an equally established principle that, in any department, and I know something of the administration of the departments, no changes of a radical character are ever made during the acting incumbency of an officer. If any such thing is to be done, it is generally done on the recommendation of the permanent incumbent, because it is he that is responsible for the future working of the department. So far as I know personally, and I do not think it will be denied, the place of the Deputy Registrar was in existence for at least 15 or 20 years. When it was proposed to be abolished, its retention was recommeded in very strong terms by the then Chief Justice and when the permanent Chief Justice recommended a man to be appointed in that place, the recommendation was accepted and that man

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[Mr. V. Subba Aiyar.]

was appointed. The acting Chief Justice, I may say, before he had time to know much of the working of the office itself, recommended that the post is not wanted. Perhaps his suggestion is entitled to very great weight, and I have not the slightest doubt about it. But the difficulty arises from the fact that the permanent Chief Justice wanted a man to be appointed. Whether that appointment has to be abolished, and if the permanent Chief Justice wants the post to be restored back, the Government should come in with a fresh proposal or a fresh demand, is a matter that has to be considered. Is it easy to get sanctioned a fresh demand or a fresh proposal, or is it more convenient to allow the office to continue until the permanent incumbent comes, and if he is also of the same opinion, to treat that officer as a supernumerary and dispose of him in any other manner? Without giving the permanent incumbent a voice in the matter of abolishing the post, if it is to be dispensed with, it may not be sound. I am perfectly indifferent as to whether the post itself is abolished or retained. About that matter, possibly the Chief Justice is the best authority. My view with reference to that is that it has been recommended by the permanent Chief Justice and the abolition of the post, I beg to state, will have to be deferred until the permanent Chief Justice comes and the matter is finally discussed. To my mind, it appears that that is the practice in every department. I do not see why there should be any departure from that established practice in this particular matter.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I know what he thinks about keeping the post in abeyance till the permanent Chief Justice returns?

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): I am not appearing for the Government. The member might have asked Mr. Kayyalam Paramesvaran Pillai about it.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Sir, on general principles, one is inclined to support the idea of abolishing the post of the Deputy Registrar. The acting Chief Justice has recommended the abolition of the post or at least the keeping of it in abeyance. The Law Member has not stated before the House the very wording of the recommendation of the acting Chief Justice so as to enable us to understand the exact meaning that should be attached to the recommendation. Anyhow, it is a fact that he has recommended so. But Mr. Subba Aiyar has been telling us the past history of it, and I agree with Mr. Subba Aiyar when he says that this House must consider well before we recommend the abolition of this place altogether.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I know from the member whether the recommendation of the acting Chief Justice was after the question has been properly considered or without considering the matter thoroughly?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I am not in a position to say anything about that. That is why I tried to ascertain from the Law Member what the exact wording of the recommendation was.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Who is responsible for the work in that office?

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MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): At present, the acting Chief Justice is responsible and so sufficient importance may be attached to his recommendation so far as the present work is concerned. But the question of the permanent abolition of the post has to be considered more seriously. It seems that a person has already been appointed in that place and the Government may have some difficulty to dispense with him. The question of keeping the place in abeyance has to be considered from that aspect also. But since the matter has not been fully explained to this House, I do not find myself in a position to lean either to one side or the other in that particular point. I would request the Law Member to explain the matter more fully so that the members in this House may get a clearer understanding on the question of the keeping in abeyance of the post. As regards the abolition of the post, I think it should be considered only after the permanent Chief Justice resumes charge.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Mr. P. K. Narayana Pillai made a reference to the person of the Deputy Registrar. I may tell this House that I do not know him at all. I have not seen him or known anything about him. I brought the motion forward seeing that it is unwise to spend money on an officer who has no work to do. The Law Member has not convinced me that the Deputy Registrar has now got sufficient work to do. I cannot support any suggestion that will cause needless expenditure on any service. If there is any amount of money, however small it might be, that could be saved without imparing efficiency, it should be saved. I therefore press the motion for a division.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I should once again press the fact that the acting Chief Justice, though at first he was of opinion that the Deputy Registrar's place may be abolished, immediately afterwards revised his own view. It was within a short period of five or six days, and he then said that it might be held in abeyance for three months. Further, if the Government sanctioned the abolition of the Deputy Registrar's place, the appointment of the additional hands as asked for would certainly have become necessary. These changes, *viz.*, the abolition of an existing post of the Deputy Registrar and the appointment of certain additional hands could hardly be done while an acting Chief Justice is in office, especially because he himself suggested the abolition only as a tentative measure.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Does not the acting Chief Justice sit in departmental benches?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Are his decisions of any value there?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes.

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MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Is there any difference in the value attached to the recommendation of the acting Chief Justice made to the Government and to his pronouncement while sitting in a departmental bench?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): As I submitted before, the acting Chief Justice's original opinion in this instance was discounted to a considerable extent by the fact that he himself revised his opinion and said that it need be but held in abeyance for three months. When such a recommendation was received by the Government, it was thought expedient to wait till the permanent Chief Justice returns from leave.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Is the Member's statement open to the inference that the acting Chief Justice made a recommendation for the abolition of the post and finding that it was not successful he applied at least for the abeyance of the post for three months?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): May I know the cost of the additional staff that is proposed by the acting Chief Justice?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): He has proposed the appointment of a Head Accountant on Rs. 75-10-100, and a clerk on Rs. 40-5/2-70.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): So the minimum is Rs. 115, very near the pay given to the Deputy Registrar, on account of the appointment of 2 additional clerks?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes. Thus, the House can see that, in the circumstances, the Government could not forthwith sanction the recommendation of the acting Chief Justice, and could not but hold over the question until the return of the permanent Chief Justice.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): In view of the explanation, I beg leave to withdraw the motion.

The motion was, by leave of the House, withdrawn.

Motion 257.

The following motion was not moved:

MR. K. P. NILAKANTA PILLAI:

257. To reduce the allotment of Rs. 56,448 for High Court by Re. 1.

Motion 258.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I beg to move the following motion:—

258. To reduce the allotment of Rs. 56,448 for High Court by Rs. 5.

I move this motion in order to point out that the Rule Committee proposed to be constituted (*louder, please*) need not be constituted with such a big amount for its expenses as has been allotted in the budget.

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In the budget, it is stated that there is to be a separate Secretary with a pay of Rs. 70, a clerk-typist with a pay of Rs. 25 and a peon on Rs. 9. My submission is that the work which this committee has to do does not entail the constitution of a separate establishment, but may be done by the present establishment. The Secretary need not be a separate person, but the Registrar or the Deputy Registrar may be appointed as the Secretary and one or two clerks now doing work in the High Court may be asked to do the work of the Rule Committee also. I therefore move this motion just to point out to the Government that the separate establishment for the Rule Committee is not necessary.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : The appointment of the staff for the Rule Committee was proposed by the Chief Justice and I would request the member to note that it is to be sanctioned only temporarily, for a year. The question of reducing the staff or revising it would be taken up after seeing how the Committee works with this staff.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*) : May I ask the member what the practice obtaining in Madras is ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : I am not aware of the nature of staff that has been appointed there. But I know that there is a permanent Rule Committee at Madras.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : Is it the recommendation of the permanent or the acting Chief Justice ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : It is from the acting Chief Justice.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : May I know what the recommendation of the permanent Chief Justice was ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : I am not aware that he made any recommendation.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*) : I thought there was another recommendation. May I know whether he did not recommend that the Registrar should be given an allowance of Rs. 50 or so ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Yes. I have found it now. The difficulty which I should like to point out to the House is that I am not in possession of the entire file now, since the motion did not specify the purpose.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Does the member say there was another recommendation ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes. The present recommendation is to the following effect : —

A Secretary on Rs. 70-10-100 per mensem, one clerk on Rs. 25-5/2-50, one typist on Rs. 30-5/2-45, one head peon on Rs. 10 and two peons on Rs. 9 each.

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MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Sir, I support Mr. Matthew's motion on a variety of considerations. The first question that presents itself is that with respect to the creation of the committee. It can well afford to wait till the return of the permanent Chief Justice. Mr. Subba Aiyar seems to suggest that there was some sort of recommendation by the permanent Chief Justice himself on which my friend Mr. Kayyalam Parameswaran Pillai is unable to throw any light at present. As regards the permanent creation of an office that is now being recommended by the acting Chief Justice, on the analogy of the principle adopted on the previous motion, I would submit that it is better that we wait and see what the permanent Chief Justice has to say in this matter. At any rate, my submission is that the whole thing may be suspended for six months so that the permanent Chief Justice may return and study the question and formulate his views. Again, the need for the creation of such a staff on such salary basis does not also appeal to me.

MR. K. GEORGE (*Chief Secretary to Government*): Is it not provided in the statute itself?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): The need for the Committee is there, but not a Committee on such a salary basis. Further, the Rule Committee is one which may occasionally meet or probably will not meet at all. So far as the Rule Committees in Madras, Calcutta and other places are concerned, they do not meet so often as my friend Mr. Parameswaran Pillai seems to suggest. It is only once in a way the necessity for the meeting of the Rule Committee would arise, to change here or there one particular rule in the Civil Procedure Code in any Order. For that purpose, to ask for a standing army in the shape of a Rule Committee, I think, is quite abnormal. It is out of all proportion to the situation. Therefore, I have very great pleasure in supporting the motion of Mr. Matthew.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): Sir, I also support the motion. The Rule Committee is a committee constituted under the Civil Procedure Code. The duty of that committee is to make such modifications as may be found necessary in the Rules. If we go by previous experience in the matter, in the British Indian Province whose Civil Procedure Code we adopted, I believe there have not been very many modifications since 1908, the date on which the British Indian Civil Procedure Code came into force. I believe the Registrar of the High Court of Madras is paid Rs. 100 a month and he is at liberty to spend that amount in any manner he likes. He may distribute it to a few of his clerks but he must see that the Rule Committee's work is attended to. Here we have just a few minutes ago debated the necessity for the post of the Deputy Registrar. It is said that he has not got much work although two clerks were requisitioned in his place. So, if we are going by economy, I would state that the Deputy Registrar should be asked to be *ex-officio* Secretary without any additional payment and then we should see whether he is over-worked. If he is over-worked, then the plea that he must be remunerated more may be pressed forward by him and we may consider the question afterwards. The statute

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only says that the Secretary may receive such remuneration as may be fixed by the Government. It is not obligatory upon the Government to fix any remuneration. They may ask one of the officers to do the work *ex-officio* without any remuneration whatsoever. Seeing that we had some debate on the necessity for the posts of the Deputy Registrar and the Manager of the High Court, I think the High Court staff will not seriously be over-worked if either the Deputy Registrar or the Manager is also asked to attend to the work of the Rule Committee. I for one am not seriously enamoured or convinced by the argument for an array of three peons for a Rule Committee as there are seven or eight peons for each of the Judges to preserve order in a Court where they meet. In these circumstances, I am decidedly against any additional appointment. I believe the permanent Chief Justice recommended a remuneration, or honorarium or allowance or whatever you may call it, of Rs. 50 to the Registrar. Even that, I should like to be kept in abeyance. In that case, it cannot be a question of a fresh appointment, but only of an officer already in the service. So I believe we will be giving effect to the recommendations of both the permanent and the acting Chief Justices if we say that the Deputy Registrar without whom the acting Chief Justice thinks that he can get on with the work should be asked to attend to the work of the Rule Committee.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I entirely agree with the views of Mr. Subba Aiyar and I therefore support the motion of Mr. Matthew.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I am agreeable to having the matter held in abeyance for a period of six months, after which the matter may be considered again.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Sir, as the Additional Head Sirkar Vakil on behalf of the Government has given an assurance that the whole thing will be held back till the arrival of the permanent Chief Justice to whom the matter will be referred, I beg leave to withdraw the motion.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): I do not know what my friend means when he says that it will be kept in abeyance, either the staff or the Rule Committee? The Rule Committee has to be appointed under the Regulation. Only the staff may be kept in abeyance.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I mean only the staff.

The motion was, by leave of the House, withdrawn.

Motions 259 and 260.

The following motions were not moved :—

MR. K. I. JOSEPH:

259. To reduce the allotment of Rs. 56,448 for High Court by Rs. 100.

MR. K. K. THOMAS:

260. To reduce the allotment of Rs. 4,94,500 for Civil and Sessions Courts by Re. 1.

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Motion 261.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): Sir, I beg to move the following motion :—

261. To reduce the allotment of Rs. 4,94,500 for Civil and Sessions Courts by Rs. 100.

വില്ലേജ് പഞ്ചായത്തു കോടതികളിലേക്കു ജഡ്ജിമാരെ നിയമിച്ചു വരുന്ന ഇന്നത്തെ രീതിയിൽ പലദോഷങ്ങളും ഉണ്ടെന്നുള്ള സംഗതിപറയാനായിട്ടാണ് ഈ മോഷൻ കൊണ്ടുവന്നിട്ടുള്ളത്. പ്രധാനമായി ഇപ്പോൾ അതിലേക്കു നടത്തിവരുന്ന നിയമനരീതിയെ നോക്കാം. ജഡ്ജിമാരായി നിയമിക്കേണ്ടവരുടെ കുറെപേരുകൾ സ്ഥലം പാവ്ത്യകാർ എഴുതി അയക്കുന്നു. ആ ലിസ്റ്റിൽ താലൂക്കു കച്ചേരിയിൽ നിന്നും ഏതാനും പേരുകളെ തിരഞ്ഞെടുത്തു് ഡിവിഷനിലേക്ക് അയക്കുന്നു. അതിൽനിന്നും കുറെ പേരുകളെ തിരിഞ്ഞെടുത്തു് ഗവർമ്മെൻറിൽ അയക്കയും അതു പ്രകാരം നിയമനം നടത്തിവരികയും ചെയ്യുന്നു. പഞ്ചായത്തു കോടതികളിൽ ജഡ്ജിമാരായി തീരണമെന്നു് ആഗ്രഹിക്കുന്നവർ പ്രവത്തിക്കച്ചേരിമുതൽ ഹജൂർ കച്ചേരിവരെ അവരുടെ പേരുകൾ എത്തുന്നതോടുകൂടി അവരും സഞ്ചരിച്ചുവരികയാണു ചെയ്യുന്നതു്. അവരുടെ ഈ ശ്രമങ്ങളിൽ പലെ അപഖ്യാതികൾക്കും അവിഹിതമായ നടപടികൾക്കും ഇടയായിത്തീരുന്നു. ഇങ്ങിനെയൊരുദോഷം അതിൽ കടന്നുകൂടിയതോടുകൂടി ജഡ്ജിമാരായിത്തീരാനുള്ള ഭ്രമം അതിലേക്കു യോഗ്യതയില്ലാത്ത ആളുകളെ ആകഷ്ടിക്കയും അവരുടെ മത്സരങ്ങൾ ഓരോ ദിവസവും വർദ്ധിച്ചുവരികയും ചെയ്യുന്നു. ഇതിന്റെ ഫലമായി തീർന്നതു് പഞ്ചായത്തുകോടതികളിൽ ഇരിക്കാൻയോഗ്യതയില്ലാത്തവർക്കു് അവിടെ സ്ഥാനം കിട്ടുകയും അതിനാൽ പലഅഴിമതികൾക്കും കാരണമായതോടുകൂടി ജനങ്ങൾക്കു ന്യായം കിട്ടാതാകയും ചെയ്യുന്നു.

വില്ലേജ് പഞ്ചായത്തു കോടതികളിൽ ജഡ്ജിമാരായി നിയമിക്കേണ്ടവർ ആ സ്ഥലത്തുള്ള ജനങ്ങൾക്കു വിശ്വാസവും ബഹുമാനവും ഉള്ള ആളുകളായിരിക്കണം. ഇന്നത്തെ നിയമനസമ്പ്രദായപ്രകാരം അതിലേക്കു യോഗ്യതയുള്ളവരെകിട്ടാൻ പല അവസരങ്ങളിലും സാധിക്കാതെ വരുന്നു. ഇതിലേക്കു് ഇപ്പോൾ സ്വീകരിച്ചുപോരുന്ന രീതിയെയാണു് ഞാൻ കുറപ്പെടുത്തുന്നതു്. ജനങ്ങൾക്കു സ്നേഹവും ബഹുമാനവും ഉള്ള ആളുകൾ അവരുടെ പേരുകളെ വ്യഴുതിഅയപ്പിക്കുന്നതിനും, ആ പേരുകൾ എത്തുന്ന കച്ചേരികളിലെല്ലാം സഞ്ചരിക്കുന്നതിനും, അവിടെ ശുപാർശകൾ ചെയ്യുന്നതിനും തയ്യാറാവുന്നതല്ലാ. ഇങ്ങിനെ വരുമ്പോൾ പഞ്ചായത്തുകോടതികളിൽ ജഡ്ജിമാരായിരിക്കാൻ യോഗ്യതയുള്ളവരെ

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കിട്ടാൻ സാധിക്കാതെ വരും. ഇന്നത്തെ സ്ഥിതികഠം ഇങ്ങിനെയാണ് വന്നിരിക്കുന്നത്.

പഞ്ചായത്തു കോടതികഠംക്കു വന്നിട്ടുള്ള ഈ ദോഷത്തെ പരിഹരിക്കാനായി എനിക്കു തോന്നുന്ന അഭിപ്രായം, ജഡ്ജിയായും, പ്രസിഡൻറായും നില്ക്കുന്നവക്ക് ഇന്ന ഇന്ന യോഗ്യതകഠം ഉണ്ടായിരിക്കണമെന്നു നിശ്ചയിക്കയും, അവരെ അതാതു സ്ഥലങ്ങളിലെ ജനങ്ങഠം തന്നെ തിരിഞ്ഞെടുത്തു നിയമിക്കയും ചെയ്യണമെന്നാണ്.

ഇതോടുകൂടി മറൊരു സംഗതി എനിക്കു പറയാനുള്ളതു് പഞ്ചായത്തു കോടതികളുടെ ഭരണത്തെ പരിശോധിച്ചു ജനങ്ങഠംക്കു പ്രയോജനകരമാക്കിതീർക്കുന്നതിനു ഈ സ്ഥാപനത്തിനു സ്ഥിരമായ ഒരു മേധാവിയുണ്ടായിരിക്കണമെന്നുള്ളതാണ്, പഞ്ചായത്തു കോടതികളോടു മുൻസിപ്പാലിറികളെക്കൂടി ഉഠപ്പെടുത്തുന്നതായാൽ ഒരാഠംക്കു ധാരാളം ജോലിയുണ്ടായിരിക്കുന്നതാണ്. ഈ അഭിപ്രായത്തെ ഗവർണ്മെൻറു സ്വീകരിക്കുന്നപക്ഷം ഒരു സംഗതി കാലേക്കൂട്ടി ഗവർണ്മെൻറിനെ അറിയിക്കേണ്ടതായിരിക്കുന്നു. അതിലേക്കു പൂർണ്ണയോഗ്യതയുള്ള ഒരാളെ തിരിഞ്ഞെടുക്കണമെന്നുള്ളതാണ്. ഈ നിയമനം ഉണ്ടാകുന്ന കാലത്തു ആ ഉദ്യോഗത്തിനു് ആളെ നിയമിക്കയല്ലാതെ ആളേനോക്കി ആ ഉദ്യോഗം കൊടുക്കാതിരിക്കണമെന്നു് എനിക്കു പ്രത്യേകം താല്പര്യമുള്ളതാണ്.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, in regard to the appointment of judges of the Panchayat Courts, I beg to state that it is now done by the Government on the recommendation of the Peishkars and after the anxious consideration of the Government.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): ഗവർണ്മെൻറു നിയമനങ്ങളെ ഞാൻ ആക്ഷേപിക്കുന്നില്ല. പേഷ്കാരന്മാർ ശിപാർശചെയ്യുന്ന ആളുകളുടെ ഗുണദോഷങ്ങഠം ഗവർണ്മെണ്ടിനറിഞ്ഞുകൂടെന്നും എനിക്കറിയാം. പേഷ്കാർ ചെയ്യുന്ന ശിപാശകളുടെ ദോഷമാണ് ഇന്നത്തെ സ്ഥിതികഠംക്കു കാരണമായിട്ടുള്ളതു്.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I tell the member that in some cases even the Peishkars do not know who these persons are?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It is not unlikely.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): തഹശീൽദാരന്മാർ ശിപാശചെയ്യുന്നവരെപ്പററി അവക്കുതന്നെ അറിയാൻപാടി

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[Mr. T. Kumara Pillai.]

ല്ലാത്തസ്ഥിതിക്ക് പേഷ്കാരന്മാക്ക് അവരുടെ കാര്യങ്ങൾ അറിയാൻപാടില്ലാത്തതിൽ ആശ്ചര്യപ്പെടുവാൻ ഇല്ലാത്തതാണ്.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : If that is the point of Mr. Kumara Pillai's criticism, I think the Government may give this undertaking that the Tahsildars will be instructed to make special care in recommending candidates for appointment, and also to give their personal opinion with regard to each of them.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : May I know why the power of making recommendations could not be vested in the District and Sessions Judges?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : They are purely judicial Officers who have no occasion to mix with the people in the course of their duties and I think that therefore it is not possible for them to know personally the good or bad points of all individuals.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : May I tell the member that persons who are very often nominated as judges in the Panchayat Courts are court birds and that they are the premier litigants of the taluk?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : I am not aware of that. But if Mr. Paramesvaran Pillai assures me like that, I am prepared to accept it, and that fact will be conveyed to the Peishkars and Tahsildars.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*) : Is it not necessary that the persons appointed should have a knowledge of law?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : No knowledge of law as ordinarily known is necessary for these persons as they have to administer justice from a common sense point of view.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*) : എഴുത്തും വായിക്കാനുമുള്ള വശമെങ്കിലും വേണ്ടതല്ലേ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : I believe that the Panchayat Court Judges are literates. Of course, the criticisms that there are undesirable persons among the judges may be conveyed to the Peishkars and they may be asked to instruct the Tahsildars that particular care should be taken by them in recommending persons for nominations to Panchayat Court judgeships.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*) : Why not the Peishkar himself be asked to have personal knowledge of the people?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : I do not know whether it is practicable to insist that the

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Peishkar should have personal knowledge of the nominees. He has an extensive area and there is a large number of Panchayat Courts in his Division.

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): May I know whether it is not possible to prescribe minimum educational qualifications for the judges?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I do not think it is practicable or advantageous to fix any educational qualifications.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I know whether the Government would be pleased to make a preliminary publication of the names for a general challenge by the people?

***MR. KAYYALAM PARAMESVARAN PILLAI** (*Additional Head Sirkar Vakil*): I doubt if it is advisable that a person who is going to administer justice in a locality should be subjected to criticism by the general public of that locality.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Sir, those of us who are familiar with the state of affairs in the interior of the country are convinced from actual experience that if no suitable remedy could be found to ensure the appointment of a higher type of men as judges of these courts, it would be very much better if these courts are abolished. (*Hear, hear.*) It was suggested that the Government should select better types of men, but the difficulty was, how? What really happens now is that we have got nearly 40 lakhs of people in Travancore and every one of them is hankering after some kind of public recognition and the number of members on the Legislative Council is limited and the same is the case with regard to the Sri Mulam Popular Assembly. When there is any opening, such as Panchayat Courts or Town Improvement Committees, all the people in the locality run after people with whom the appointment rests and then somehow they get themselves nominated. The more incompetent a person is, the greater is his anxiety and the greater is the energy that he spends for getting nominated. More self-respecting persons who have got other work to do, do not care for these appointments. I know that for a person to be conscientiously doing his work as the Panchayat Court Judge, it requires a lot of expenditure of time and energy, and it is only those who have no other work and who are incompetent and who get on without any work in any other way that are hankering after this kind of work. It is rather unpleasant to refer to actual cases. If it is not unparliamentary, I would refer to an instance which would shock this House, an instance that has become a scandalous thing in these Panchayat Courts. I know there are judges who are doing their work satisfactorily. But, a large number of people are abusing the position of trust and even making a gain out of the business. It has become a thing of public scandal, and I do not know whether the Government have any idea of organising the Panchayat Courts under the Village Panchayat Regulation. Probably, the functions are to be merged in the Village Panchayat Court judges or there might be some rules for

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[Mr. K. C. Mammen Mappillai.]

this purpose. If it is not feasible to secure a fairly higher standard of men, I for one will strongly say that these courts may be abolished for the present though it may be considered a retrograde step to follow.

MR. PAUL DANIEL (*Nominated*): Though I have nothing new to say on the subject, from the experience I have gained, I am led to support every word of my friend Mr. Kumara Pillai's with regard to the present constitution of the Panchayat Courts. I must say that the personnel of the Panchayat Courts has been steadily deteriorating. When the Panchayat Court was first established and judges were appointed by the Government, it appeared that that was going to be a very efficient institution, giving a great amount of facility to the litigants with small sums of money. The best men were chosen and somehow or other they were conscientious people. In most cases, vakils with extensive practice were able to set apart one or two days in a fortnight to attend to the difficulties of the people. But as time has gone on, men with inferior qualifications, not exactly inferior qualifications in law, have been appointed to these posts, and also people who have been hankering after them for low purposes. So that, the institution has now lost the estimation in which it was once held.

One other thing I wish to point out is that, strange to say, there are some people who are very anxious to be appointed to the Panchayat Courts but who seldom attend the sittings. An examination of the attendance register of the Panchayat Courts will, I am sure, support the statement that I have now made. It is considered to be an honour among one's own people to be a Panchayat Judge. When the Government appoint such men to such offices, they do so with the idea that they must serve their own people without remuneration. but, these men think that simply for the sake of honour the appointment was conferred upon them. I would, therefore, in supporting Mr. Kumara Pillai's motion, request the Government to find out the most irregular judges of the Panchayat Courts and see that a warning is administered to them. If that is done, they may do their work for the benefit of the people.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Sir, my experience also goes to show that the judges of the Village Panchayat Courts must be selected with greater discrimination and with greater scrutiny. In supporting the motion in the spirit in which it has been moved, I endorse the views expressed by the mover.

MR. M. SIVATANU PILLAI (*Tovala*): In supporting the motion, I have great pleasure in endorsing the sentiments given expression to by my friend Mr. Daniel and I was only agreeably surprised to hear the identical remarks made by my friends Mr. Kumara Pillai and Mr. Mammen Mappillai. These lead me to the inevitable conclusion that the institution of the Panchayat Court as a whole in our State does not serve the most laudable object for which it was created. I believe it is due to a great extent to the way in which the nominations of judges are

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made and not due to the system. I would only point out that in future the Government should select proper men for these places, who would devote more time and attention to the work.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): പഞ്ചായത്തുകോടതി ജഡ്ജിമാരായിട്ടു നിയമിക്കുന്ന ആളുകളെസംബന്ധിച്ചു തഹശീൽദാരന്മാരോടു കൂടുതൽശ്രദ്ധ കാണിക്കണമെന്നു ചട്ടംകെട്ടുന്നതിനു വിരോധമില്ലെന്നാണു് ലാമെമ്പർ പറയുന്നതു്. അതുകൊണ്ടുമാത്രം മതിയാകുമെന്നു ഞാൻ വിചാരിക്കുന്നില്ല.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): പഞ്ചായത്തുകോടതിജഡ്ജിമാരെ ഓരോആണ്ടത്തേയ്ക്കും നിയമിച്ചാൽ പോരെ?

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): ഒരാണ്ടത്തേക്കോ നാലുകൊല്ലത്തേക്കോ ആയാലും കായ്ക്ഷമതയോടും സത്യസന്ധതയോടും വേലചെയ്യണമെന്നു മാത്രമേ എനിക്കു പറയാനുള്ളൂ. ആ സ്ഥാനത്തെ ഒഴിച്ചിടിക്കാതെയിരിക്കണമെങ്കിൽ തഹശീൽദാർമാരോടു നിഷ്കൃഷ്ടയായിട്ടു ചട്ടംകെട്ടേണ്ടതു പാവ്ത്യകാരന്മാർ അയക്കുന്ന ലിസ്റ്റുകളെ കണ്ണടച്ചു് അതേമാതിരി മേലാവിലേക്കു് അയക്കരുതെന്നാണു്. ആ സ്ഥാനത്തിനു പൂർണ്ണയോഗ്യതയുള്ളവരെ വേണ്ടപോലെ അന്വേഷിച്ചറിഞ്ഞു പേരുവിവരം ലിസ്റ്റു തയാറാക്കണം. ഗവർണ്മെൻറിനോടു് ഇതിൽ തക്കതായ കാരണത്തിന്മേൽവിപരീതമായി ഈജോലിയിൽ അമാന്തിക്കുമ്പോഴം അതിനെപ്പറ്റി ഗവർൺമെൻറു തഹശീൽദാരന്മാരോടു ചോദിക്കുമെന്നു് അവരെ മനസ്സിലാക്കണം. അതുപോലെ തന്നെ പേഷ്കാരന്മാരും ഇതിൽ ചുമതലയോടുകൂടി പ്രവർത്തിക്കണം. പഞ്ചായത്തുകോടതി ജനങ്ങളുടെ നന്മയ്ക്കായിവച്ചിട്ടുള്ളതാണു്. അതിൻറെ രൂപീകരണത്തിൽ ഗവർണ്മെൻറു വേണ്ടപോലെ ശ്രദ്ധിക്കാൻ തയ്യാറില്ലെങ്കിൽ മി. മാമ്മൻമാപ്പിള പറഞ്ഞതുപോലെ—എനിക്കു പറയാൻ വളരെ മടിയുണ്ടു്. ഈ സ്ഥാപനം ഇല്ലാതാക്കുന്നതു തന്നെ കൊള്ളാമെന്നതോന്നുന്നു. അതിനാൽ ഗവർണ്മെൻറു ഈ കായ്ത്തിൽ കൂടുതൽനിഷ്കൃഷ്ടചെയ്യുമെന്നുള്ള വിശ്വാസത്തോടുകൂടി ഞാൻ ഈ ഉപക്ഷേപത്തെ പിൻവലിക്കുന്നു.

The motion was, by leave of the House, withdrawn.

Motion 262.

MR. KALLUR NARAYANA PILLAI (*Pattanamtitta*): Sir I beg to move he following motion :—

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[Mr. Kallur Narayana Pillai.]

262. To reduce the allotment of Rs. 4,94,500 for Civil and Sessions Courts by Rs. 100.

മുൻസിഫ്കോടതികളുടെ അധികാരാർത്ഥി നിണ്ണയിച്ചിരിക്കുന്നതിൽഹൈക്കോടതി സ്വീകരിച്ചിരിക്കുന്നനയം ജനസാമാന്യത്തിന് സ്വീകാര്യമല്ലാതിരിക്കുന്ന എന്നാണ് എന്റെ അഭിപ്രായം. ഹൈക്കോടതിയിൽനിന്നും അധികാരാർത്ഥി നിശ്ചയിച്ചിരിക്കുന്ന ചില മുൻസിഫ് കോടതികളിൽ കേസുകൾ ക്രമാതീതമായി പതിയുകയും അത് ഒരു മുൻസിഫിന് ചെയ്തീർക്കാൻ സാധിക്കാതെ കുടിശ്ശികവരുന്നതിന് സംഗതിയാകയും ചെയ്യുന്നുണ്ട്. ഉദാഹരണമായി ചെങ്ങന്നൂർ മുൻസിഫ് കോടതിയിൽ കൊല്ലത്തിൽ ശരാശരി ൧,൨൦൦ സിവിൽകേസുകളും ൫,൫൦൦ സ്മാൾകോസ് കേസുകളും ഫയൽ ആകുന്നുണ്ട്. അതുപോലെ തിരുവല്ലാ മുൻസിഫ്കോടതിയിൽ ൧,൯൦൦ സ്മാൾകോസ കേസുകളും ൧,൯൦൦ സിവിൽകേസുകളും ശരാശരി ഫയൽ ആകുന്നുണ്ട്. ഇത് ഒരു മുൻസിഫിനെചെയ്യാവുന്ന ജോലിയിൽ ക്രമാതീതമാണ്. ഇപ്പോഴത്തെ വ്യവസ്ഥയുംഅധികാരാർത്ഥിയും നിണ്ണയിച്ചിരിക്കുന്ന ക്രമത്തിന് ഒരു കൊല്ലത്തിൽ തീർക്കുന്നതിന് രണ്ടു മുൻസിഫ്മാരുടെ ആവശ്യം ഉള്ളവയും ഒരു മുൻസിഫിനുതന്നെ തീർക്കാൻ കേസില്ലാത്തവയും ഒരു മുൻസിഫിനെകൊണ്ടു പോരാതെയും രണ്ടുപേരുടെ ആവശ്യമില്ലാത്തവയും ഇങ്ങിനെ മൂന്നിനും ഉണ്ട്. അതിനുദാഹരണമായി അട്ടർ മുൻസിഫ് കോടതിയിൽ ഒരു മുൻസിഫിന് തീർക്കാൻ പോലും കേസുകൾ ഫയലാകുന്നില്ലാ. അതുപോലെതന്നെ ചങ്ങനാശേരിയിലും കേസുകൾ വളരെ കുറവായിട്ടെ ഫയൽ ആകുന്നുള്ളൂ. ചെങ്ങന്നൂരും തിരുവല്ലായും ഉള്ള കേസുകൾ ഒരു മുൻസിഫിനെക്കൊണ്ട് തീരുകയുമില്ലാ ; രണ്ടു മുൻസിഫ്മാരുടെ ആവശ്യമില്ലതാനും. ഈമാതിരിയുള്ള മുൻസിഫ്കോടതികളിലെ ജോലിക്രമത്തെ ക്രമപ്പെടുത്തുന്നതിന് തിരുവല്ലായുടെ അധികാരാർത്ഥിയിൽനിന്നും ഏതാനും പകുതികൾക്രൂടി ചങ്ങനാശേരിയ്ക്ക് വിട്ടുകൊടുക്കയും, ചെങ്ങന്നൂരിൽനിന്നും ഏതാനും പകുതികൾ പത്തനംതിട്ടക്ക് വിട്ടുകൊടുത്ത് അവിടെയുള്ള ഏഴരപകുതികൾ കൂടി ചേർത്ത് ഒരു മുൻസിഫ്കോടതി സ്ഥാപിക്കുകയും ചെയ്യണം. അട്ടർ മുൻസിഫ്കോടതിയിൽ ഇപ്പോൾ കേസില്ലാത്തതിനാലും മുമ്പുതന്നെ അവിടെ ഒരു മജിസ്ട്രേട്ടകോടതി വേണമെന്ന പബ്ലിക്ക് മീറ്റിങ്ങുകൾ മൂലവും ഡെപ്യൂട്ടേഷൻ മുഖാന്തിരവും ഗവർമ്മെൻറിനെ അറിയിച്ചുകൊണ്ടിരിക്കുന്നതിനാലും അട്ടർ ഒരു മജിസ്ട്രേട്ടിന്റെ അധികാരത്തോ

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ടുക്കുടിയ ഒരു മുൻസിഫ്കോടതി എടുപ്പിച്ചുത്തി കൊടുക്കുകയും ചെയ്താൽ ജനങ്ങൾക്കു വളരെ സൗകര്യമായിരിക്കും. ഈവിധത്തിലുള്ള സൗകര്യങ്ങൾ ചെയ്തു കോടതികളെ ജനങ്ങൾക്ക് ഉപയോഗപ്രദമാക്കണമെന്നുള്ള ഉദ്ദേശത്തോടുകൂടിയാണ് ഞാൻ ഈ മോഷൻ കൊണ്ടുവന്നിട്ടുള്ളത്.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : I have very great pleasure in supporting the cut proposed by Mr. Narayana Pillai though my reason for supporting it is slightly different. My contention is with respect to the establishment of a Munsiff's court not at Pattanamtitta but at Ambalapuzha. (*Laughter*). Ambalapuzha had originally a Munsiff's court, but it was shifted from there to Shertallai. Ambalapuzha is now under the jurisdiction of the Alleppey Munsiff's court and there are now two courts at Alleppey. One of them is now to all appearance permanently located in the *Satram* at Alleppey. Firstly, this causes inconvenience to the passengers and secondly, there are proper places available for the location of a Munsiff's court in Ambalapuzha. All that is now needed is to transfer the temporary court from Alleppey to Ambalapuzha, and it is quite a feasible measure. Pointing out that these are my reasons, I would support it.

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : Sir, I too have an identical motion. Without moving that, I shall be satisfied in supporting Mr. Narayana Pillai's motion. My submission is that a Munsiff-Magistrate's court should be established at Arukutti. Now, as it is, the civil cases from there are taken to Vaikam and the criminal cases to Shertallai which is about 13 miles from Arukutti and 10 miles from Vaikam. If a study of the topography of the place is made, it will convince any one that it is very difficult to go over to Shertallai or Vaikam. There are no proper roads and I hope the Chief Engineer will bear witness to it. There is also another island which is about 3 miles long and 3/4 of a mile broad which is called Perumbikara. Pallipuram, Thrichattupuram and Mattatilkulam are 8 miles away from Vaikam and 16 miles from Shertallai. So that, it is a very difficult thing to go there. If the Munsiff's court is transferred to Arukutti, it will be very convenient for the people in these places. Originally there was a Magistrate's court at Arukutti. The transfer will not involve any additional expenditure if one of the courts is transferred to Arukutti and the Munsiff invested with magisterial powers as a great number of people are inhabiting that locality.

MR. M. SIVATANU PILLAI (*Tovala*) : May I know from the member whether giving convenience to the people like this will not tend to make them more litigious?

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : If there is a court already near them, they can go very conveniently, but if it is situated far away, they will have to spend more; if near, they need not incur so much of expenditure. I do not think that people will go away to those places. There was originally a Magistrate's court there and there is an additional Munsiff's court at Vaikam. Therefore, what I submit

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[Mr. K. Sivarama Panikkar.]

is that one of the Munsiff's courts at Vaikam should be shifted to Arukutti where there was a Magistrate's court before which was taken away.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): I also support the motion to make a request that the Tahsildar or Munsiff at Tiruvalla should be invested with magisterial powers.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I tell the member that the Magistrates cannot be included under this?

MR. G. NARAYANA PILLAI (*Tiruvalla*): I also rise to support the motion of Mr. Narayana Pillai with this exception, namely, that any *pakuthi* now within the jurisdiction of the Munisiff's court at Tiruvalla should not be transferred to the Munsiff's court at Changanachery. Now that the Changanachery Munsiff is proposed to be invested with magisterial powers, his hands are likely to be otherwise full and there is no justification for burdening that officer with further civil work. With the modification, therefore, that the jurisdiction of the Tiruvalla court be left intact, I support the motion for the establishment of a Munsiff's court at Pattanamtitta.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): I support the motion. In doing so, I have also to state that one of the Munsiff's courts from Trivandrum may be shifted to Neduvangad and a Munsiff-Magistrate appointed there.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I see that the debate is about the redistribution of the territorial jurisdiction of the Munsiffs' courts. I also understand that Mr. Kallur Narayana Pillai and Mr. P. K. Narayana Pillai want additional Munsiffs' courts — — —

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I did not want an additional court but the shifting of one from Alleppey to Ambalapuzha.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): But having regard to the views of many of the members of this House that a redistribution of the territorial limits of the Munsiff's courts is desirable, the debate in this Council may be conveyed to the High Court for their consideration. I am sure the members will agree with me that it is not possible for the Government—

MR. K. SIVARAMA PANIKKAR (*Shertallai*): If there is no additional expenditure, is there any harm for the Government to accept the views?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That has to be considered along with other aspects of the case.

MR. KALLUR NARAYANA PILLAI (*Pattanamtitta*): പ്രജാസഭയുടെ മുമ്പാകെ യോഗത്തിൽ പത്തനംതിട്ട മെമ്പർ ചെയ്ത നിവേദനത്തിന്റെ ഫലമായി അവിടെ കൊട്ടാരക്കരെ ഉണ്ടായിരുന്ന അഡിഷണൽ മുൻസിഫ് കോടതിയെ മാറിയിട്ടുന്നതിനു് ഉത്തരവു പോയിട്ടു്—

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MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): അതു ഫൻറെ ചട്ടൽ ആണ സ്ഥാപിച്ചിട്ടുള്ളതു് എന്ന തോന്നുന്നു. അതു മാറിസ്ഥാപിക്കേണ്ട ആവശ്യമില്ലെന്ന ഹൈക്കോടതി അഭിപ്രായപ്പെട്ടിട്ടുണ്ടു്.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I know from the learned Law Member that if the opinion of the High Court is adverse to the opinion of this House it will be laid before this House for discussion?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It is not possible to give an undertaking like that.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Will the Government kindly enquire if one of the temporary Munsiff's courts at Trivandrum could not be shifted to Neduvangad?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, that matter also will be referred to the High Court.

MR. M. SIVATANU PILLAI (*Tovala*): Will the Government consider the feasibility of transferring one of the Munsiffs' courts from Alleppey to Tovala?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I am not in a position to say one way or other on that matter just now. That matter also will be referred to the High Court.

MR. KALLUR NARAYANA PILLAI (*Pattanamtitta*): ഞാൻ എന്റെ ഉപക്ഷേപത്തെ പിൻവലിക്കുന്നു.

The motion was, by leave of the House, withdrawn.

The President left the hall at 1·40 P. M., and the Deputy President took the Chair.

Motion 264.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Sir, I move the following motion:—

264. To reduce the allotment of Rs. 92,900 for Criminal Courts by Re. 1.

I have given notice of this motion with the view of discussing the question of recruitment to the Magistracy. It has been several times brought to the notice of this House as well as to the notice of the Government that the administration of criminal justice would be better served by appointing pleaders as Magistrates. The present system of recruitment to the Magistracy is to appoint clerks from the ministerial staff as Stationary Magistrates. At some time, when we could not get better materials, there may have been a justification for the recruitment from the clerical staff. It will not be denied, Sir, that the clerks of the Account Office are not in any way acquainted with the administration of criminal justice. Though they may have passed the law examination, they have little experience of the way in which the Penal Code or the Criminal Procedure Code is to be applied. Whatever justification there may have been at one time, I beg to submit, there is none now. The country can now boast of a large number of learned pleaders all

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[Mr. T. J. Matthew.]

over the country, and I do not see why, if, from among the vakils, Munsiffs can be directly recruited, for the purpose of recruitment to the Magistracy, vakils cannot be chosen.

DEPUTY PRESIDENT: Are not the Munsiffs also recruited from among the clerks?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I did not say that recruitment of the Magistracy must be exclusively from the Bar. I only submit that the same considerations that weigh with the Government in the appointment of Munsiffs from the Bar should apply in the case of Magistrates also. Sir, as you have put me the question whether clerks are not appointed as Munsiffs, I must say that only the clerks employed in the High Court are appointed as Munsiffs. They are in a way connected with the administration of justice. They are at least reading the judgments written by the Judges of the High Court and also the subordinate courts and they are also reading the records of cases when these are boarded. Persons employed in the subordinate courts and lower courts may gain experience as bench clerks. They may be said to be very fit persons for being Munsiffs. But clerks in the Secretariat or Account Office have nothing to do with criminal justice. This is quite a new work to them and nobody would therefore deny that vakils would be better Magistrates.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): കേസൊന്നുമില്ലാത്തവക്കീലന്മാരെയും മജിസ്ട്രേട്ടാക്കാമെന്നാണോ പറയുന്നത്?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): അങ്ങിനെ ഞാൻ പറഞ്ഞു എന്ന് ഈ കൌൺസിലിലുള്ളവരാരും വിശ്വസിക്കുമെന്നു ഞാൻ വിചാരിക്കുന്നില്ല.

MR. T. KUMARA PILLAI (*Kalkulam* cum *Vilavankod*): 'വക്കീലന്മാർ' എന്നു പറഞ്ഞാൽ കേസില്ലാത്തവക്കീലന്മാരാരും അതിൽഉൾപ്പെടുകയില്ലെന്നു ഞാനും വിചാരിക്കുന്നില്ല.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): The discretion is with the Government.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I ask him whether efficient vakils will be willing to go out as Magistrates?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I believe so.

MR. K I. JOSEPH (*Minachil* cum *Devicolam*): May I ask the member whether such volunteers who are willing to accept a post on Rs. 125 will really be efficient as Magistrates?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Undoubtedly. Now, the number of vakils has increased so much that the acceptance of a Magistrate's post on this salary does not stand in any way to their discredit.

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MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Sir, I do not think it is possible to lay down any definite rule that the recruitment to the Magistracy should be made from amongst vakils or that a definite proportion of the Magistrates should be recruited from the Bar. There are several reasons why such a definite rule cannot be laid down. One is that the pay of a Magistrate is only Rs. 125. If the vakil proposed to be recruited should be one fit to administer justice, he must be a vakil who has some practice in courts. If it is said that a definite proportion of the Magistrates' posts should be given to vakils—

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*) : May I ask the Law Member whether the clerks in the Account Office are in any way better fitted than the vakils ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : That will depend on the particular clerk and the particular vakil in question. The chief qualification for a Magistrate is the power and capacity to come to a judgment. The administration of criminal law by the Magistrates is not so technical as the civil law. No doubt, it is technical ; but it is not as technical as civil law, and what is wanted is a sound common sense and a power to come to a correct judgment on human affairs and incidents. Parties appear before them and state their grievances and adduce evidence. The facts are all simple. The Magistrate must come to a judgment on these. And for this, the chief requisite, besides law qualification, is the knowledge of human nature. The clerks in the Secretariat and the Account Office and other offices are dealing with human affairs and incidents every day.

MR. N. KUMARAN (*Nominated*) : May I ask the Law Member in what connection they study human nature ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : The records that they deal with relate to human conduct. And each file that they have to deal with is like a law case file. The clerks have to study them, analyse them, separate the essential from the non-essential, prepare notes and place them before the officer who is to pass judgment, exactly as a vakil does in relation to the court who has to decide a case. And the clerk sees the orders passed by the officer, that is to say how a judgment is come to in the case.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*) : May I ask the Law Member whether a merchant who is dealing with persons has equally a knowledge of human nature ? Is he not fit to be appointed as Magistrate ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : So far as his work is concerned, he has occasion to get a knowledge of human nature of a particular sort. But it is different from the clerk's.

Further, it must be remembered that the clerks must have some scope for promotion. Once this opening of the Magistracy is blocked, the clerk's scope for promotion is to that extent narrowed. They must have scope for promotion ; without it, we cannot get highly qualified

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[Mr. Kayyalam Parameswaran Pillai.]

people for clerk's work in the offices. The work of the clerk in such important offices as the Secretariat, the Account office and the Land Revenue Commissioner's office is very onerous and it is not mere mechanical quill-driving that he does.

MR. A. J. JOHN (*Vaikam*): May I ask the member whether the High Court has got qualified men as clerks?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, they have, but not in such large numbers as in the offices I referred to.

Qualified persons go into the High Court office, because they can go out as Munsiffs. That is one chief attraction. There is no close analogy between the recruitment of vakils as Munsiffs and vakils as Magistrates. For one thing, efficient vakils, vakils of standing, may not accept a Magistrate's place though they may a Munsiff's. The Magistrate's pay and prospects are by far more limited than those of the Munsiff's.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I ask him whether the chances are that the vakils will come into contact with human nature more than a clerk?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, if they have large professional work.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I ask the Law Member what the Government have done with regard to the repeated remarks made by the High Court in their review of the administration report on criminal justice for the last several years regarding the very unsatisfactory work turned out by the subordinate Magistracy? Throughout, we find from year to year the High Court have stated that their work is 'unsatisfactory', 'very unsatisfactory'.

DEPUTY PRESIDENT: In quality or quantity?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): In quality.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I cannot answer him now as I have not got the necessary files relating to the subject with me now.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I ask whether the Government will enquire into it?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, of course, the High Court's view will be given weight to.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Are not Munsiffs recruited from the Bar?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, that is not by itself a reason to say that all the Magistrates also should be recruited from the Bar.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Did I say that all the Magistrates should be recruited from the Bar, Sir? A question to that effect was put to me and I denied that.

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MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I shall take it that he did not say that. But he wanted a definite rule that vakils will be recruited as Magistrates.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Is not the contentment of public service an important matter?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, that is why I say that clerks with high qualifications should be allowed scope for promotion. A clerk who is a B. A. or B. L. or both enters the service with the ambition of doing good work and getting promotion. If you do not give reasonable scope for that, you cannot have men with proper qualifications for the very useful work of clerks.

DEPUTY PRESIDENT: Would it not be better to ask the clerk to pass an examination in Criminal Procedure Code or the Civil Procedure Code?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Probably, Sir, you are thinking that a B. L. degree is not enough because that does not mean knowledge in procedural law. If so, I think that your suggestion is a worthy one.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I ask the Law Member whether he is satisfied with the present system of recruitment?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Is there any other system of recruitment?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): He may be recruited from the Bar also. According to the present system, no definite rule is laid down.

MR. N. KUMARAN (*Nominated*): Has the Law Member read judgments written by these clerks?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, after they had become Magistrates.

MR. N. KUMARAN (*Nominated*): Has he also read judgments written by vakils who had become Munsiffs?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes.

MR. N. KUMARAN (*Nominated*): Does he find any difference between them?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sometimes both may be equally bad and sometimes both may be equally good.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Has the member any objection to ask a clerk to pick up some practice in a court before he is appointed, say, by asking him to take leave and practise?

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MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That is not a practical proposition. If the clerk goes to a court, will he get any cases to practise? He may have to wait a long time for that.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Sir, I should like to disabuse Mr. Paramesvaran Pillai of the notion that vakils in sufficiently large numbers may not be attracted to accept posts as Magistrates on a salary of Rs. 125. If only he puts it to auction, he will know how many people will bid for it.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Can we get efficient vakils in that way?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Many of the junior vakils are rotting in the Bar or finding it very difficult to pull on. I am sure that a better type of Magistrates is badly needed and it is my deliberate conviction that a large number of Magistrates now appointed are of inferior calibre. Undoubtedly, vakils of a high order and intelligence should alone be chosen for being Magistrates.

MR. M. SIVATANU PILLAI (*Tovala*): May I ask him whether a clerk who is dealing with men on paper is better than a vakil who is killing time in law courts?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): I do not think so. It was said that, because some of the clerks find that some of the posts now open to them are taken away, it would be difficult to find qualified clerks to take up posts in the Huzur Cutcherry or in the Account Office. There is no reason for such an apprehension. The number of graduates is increasing by leaps and bounds every year and the difficulty will be only to find places for them. Therefore, such a contingency should not worry the Government in deciding this question. It will be highly desirable if a percentage of Magistrates' posts is given to vakils of a certain number of years' standing.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): How many years' standing would the member fix?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): That may be left to the discretion of the Government.

DEPUTY PRESIDENT: As in the case of Munsiffs?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Yes, the same thing may be adopted here.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): Sir, I also rise to support the motion. Even in the last session of the Legislative Council, I had sent a resolution that at least 75 per cent. of the Magistrates should be recruited from the Bar. That resolution was balloted for the session, but I had no time to move it. Therefore I take this opportunity to express my opinion in the matter. I beg to differ from the Law Member's opinion that the clerks in the Huzur Office and in the Account Office are better able to judge human nature. Lawyers are

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able to judge better than clerks in the Account Office or the Huzur Office. From my personal experience, I must also say that these clerks who are recruited from these offices have completely to depend upon the police. They do not know the procedure in the courts and they do not know how to judge on the evidence before them. They do not know how to sift evidence and how to apply common sense. Therefore, whether a vakil has a busy practice or not, he is in touch with the courts, the clients and members of the Bar who have a busy practice. Considering all these, he is several times better able to judge human nature than a clerk who is forced to sit from 11·30 to 5 o'clock in a chair in an office.

There is another point which I wish to bring to the notice of this House. We are spending a good deal of money on higher education, especially the Law College. So many graduates-in-law are coming out of the Law College every year.

DEPUTY PRESIDENT: Are we spending money on Law College?

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): That may be a gain to the Government. But a student cannot go to a Law College without completing his B. A. course.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Supposing the student has spent money, will it be of gain to him to remain quiet?

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): Certainly, it will not be. He has to go through - (*after a pause*)—To cut short, I must say, Sir, that we must find employment for these lawyers. With these words, I support the motion.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I move that the question be now put.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I support the motion for closure.

The motion for closure was put and carried.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Sir, I listened to Mr. Paramesvaran Pillai very carefully and I regret very much to say that, from the defence he has made of the present system of recruitment, he must have himself believed in the strength of the case I have made on behalf of the Bar. To say that merely because the clerks in the Secretariat or in the Account office will be dealing with files and writing notes, they will be able to administer justice—

MR. R. NILAKANTA PILLAI (*Ag. Financial Secretary to Government*): Are there not many B. L's in the Account Office and the Secretariat?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): There are. The suggestion contained in Mr. Narayana Pillai's question whether the Government would ask some of these clerks to take leave and practise in the courts is a very good suggestion. The lawyer who does not get any case, at least attends court regularly and sees how the vakils examine witnesses and how the judges conduct cases.

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DEPUTY PRESIDENT: Do you include clerks in the Law Officer's offices in the list of clerks who may be promoted as Magistrates?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): They may be on a little better footing than the clerks in the Account Office and other places. Therefore, I fail to appreciate the attitude the Law Member has taken on behalf of the Government that in no case can appointment be made from the Bar so far as Magistrates are concerned. He seems to think that although Munsiffs may have been appointed from among vakils on a pay of Rs. 150, vakils will not be coming forward as Magistrates on Rs. 125. I cannot see the difference between the two. At this stage, when it has been pointed out that the number of efficient vakils is increasing, there will be several persons to come forward. These vakils are getting sufficient experience of law. But the clerks have no such experience. That is the case I am putting forward. The vakils have got sufficient experience of law to be appointed as Magistrates and they will be an asset to the country. I am also speaking of the quality and quantity of the work of the criminal courts. If this recommendation is carried out, the administration of justice would be better than at present.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I ask the Deputy President what time we have got for this demand?

DEPUTY PRESIDENT: We will have three-fourths of an hour after lunch.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, comparison has been made between clerks who have passed law examination and vakils who are practising at the Bar. I cannot understand the reasonableness of this comparison. I can understand the comparison if it is between a clerk of say 10 or 12 years' standing and a vakil, also of 10 or 12 years' standing. If such a comparison is made, the vakil, in many cases, may stand better. But where is the comparison between an experienced clerk and a raw vakil?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I ask the Law Member whether he does not think that the mentality of a clerk is too subservient to be a Magistrate?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It is not at all so; at any rate, it need not be so.

If a clerk of 10 or 12 years' service after becoming a law graduate is appointed as a Magistrate, there is every likelihood of his turning out to be a good Magistrate. A vakil of equal number of years' standing at the Bar or of any considerable practice may be equally good; or it may be taken, even better. But he is not at all likely to accept a Magistrate's place, because further promotion is not assured or very rapid. If he enters the service as a Munsiff, he has expectations of becoming a Second Judge after, say, fifteen years' service. But a Magistrate after 10 or 15 years' service may not go beyond the grade of a Tahsildar whose salary is far lower than that of the Second Judge. That is a very telling consideration. If vakils with sufficient experience come forward as candidates for Magistrates' posts, such cases may be considered. But if

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we are to lay down a definite rule that a certain number of Magistrates should be recruited from the Bar, then we will have necessarily to appoint some vakils, and if vakils of standing are not coming forward, as is likely to be the case, we will have to appoint *any* vakil that can be got hold of. That is not a good policy.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Will the Law Member kindly explain the view of the High Court that the quality of the work done by these Magistrates is deteriorating from year to year? May I also point out to him the particular portion of the order of the Government commenting upon the report on the administration of criminal justice for 1101?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): But it does not follow that the work will improve by appointing vakils.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I know whether this is not due chiefly to the present system of recruitment?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That does not at all follow.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I know the reasons why the present system is continued even after the High Court's remarks that the work of the subordinate Magistracy is unsatisfactory.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The High Court does not say that the quality of the work is deteriorating because clerks are promoted as Magistrates.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Have the Government enquired into the matter?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I do not know.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Will the Government enquire into the matter?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The views of the High Court will be given due respect, and the member's suggestion may be considered.

DEPUTY PRESIDENT: It may be that the clerks do not get sufficient encouragement.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Contentment in the public service is another matter to be considered in this connection. If you block the promotions of these clerks among whom are eminent graduates, where is the contentment in the public service, and, unless we get good men as clerks, how can we get good Tahsildars and good Assistant Peishkars and good Peishkars?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Are the Government prepared to leave the appointment and punishment of Magistrates to the High Court?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That specific question has not been raised in the motion. I am not able to say one way or other just now.

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MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): What will be the proportion of Magistrates to the graduate clerks in the public service?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I am told that there will be about 100 graduate clerks in the Secretariat and Account Office of whom, at present, about 35 are law graduates. And, there are only 22 Magistrates' places for the clerks of these offices and other offices like the Land Revenue Department, etc., all together.

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): Cannot the clerks be promoted as Superintendents and Secretaries?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): There are only a very small number of Superintendents' places.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Have not the clerks in the High Court sufficient encouragement?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): They can go out as Munsiffs. No doubt, vakils are also appointed as Munsiffs. In the case of Munsiffs, as I said, the appointment is rather attractive having regard to the future prospects.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): Is the encouragement reduced in the case of the clerks of the Secretariat and the Account Office to that extent, if vakils are appointed Magistrates?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): To that extent, of course, the encouragement is reduced.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Are the clerks of other departments such as the Land Revenue Commissioner's Office and the Dewan Peishkars' offices also selected as Magistrates?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, Magistrates are selected from these offices also.

There are only a few Magistrates' places and the number of graduate clerks in these departments is very great. It would be hard if these people are robbed of the very few promotions they look up to.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I know whether the promotion of these clerks is based on the ground of efficiency or of seniority?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Seniority and efficiency. Every individual case will be considered on its own merits.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): In view of the large number of these clerks and the volume of work that they are turning out, is it not necessary to secure their contentment?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes. That is one of my points.

DEPUTY PRESIDENT: Do you press your motion Mr. Matthew?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I press the motion.

The motion was put and declared lost 17 voting *for* and 13 voting *against* the motion.

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MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): There are two more members who are for the motion and who have come only just now.

DEPUTY PRESIDENT: Those who have come after the division, I won't count.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I demand a poll, Sir.

AYES—18.

1.	Mr. A. J. John.	
2.	,, K. I. Joseph.	
3.	,, N. V. Joseph.	
4.	,, X. G. Lopez.	
5.	,, C. P. Kochukunju Pillai.	
6.	,, N. Kumaran.	
7.	,, T. J. Matthew.	
8.	,, G. Narayana Pillai.	
9.	,, Kallur Narayana Pillai.	
10.	Mr. P. K. Narayana Pillai.	
11.	,, K. P. Nilakanta Pillai.	
12.	,, M. N. Pillai.	
13.	,, R. Padmanabhan.	
14.	,, G. Paramesvaran Pillai.	
15.	,, Changanachery K. Paramesvaran Pillai.	
16.	,, G. Raman Menon.	
17.	,, M. Subrahmanya Pillai.	
18.	,, C. P. Tarakan.	

NOES—18.

1.	Mr. I. C. Chacko.	
2.	,, Paul Daniel.	
3.	,, R. Dhanukoti Pillai.	
4.	,, K. George.	
5.	,, P. Habeeb Mahomed.	
6.	,, R. K. Krishna Pillai.	
7.	,, R. Krishnaswami Aiyar.	
8.	Dr. N. Kunjan Pillai.	
9.	Mr. K. Madhavan Pillai.	
10.	,, K. V. Natesa Aiyar.	
11.	Mr. R. Nilakanta Pillai.	
12.	,, Kayyalam Paramesvaran Pillai.	
13.	Mrs. M. Poonen Lukose.	
14.	Mr. T. P. Ramasubba Aiyar.	
15.	Rao Bahadur K. V. Rangaswami Aiyangar.	
16.	Mr. S. C. H. Robinson.	
17.	,, V. S. Subrahmanya Aiyar.	
18.	,, A. J. Van Ross.	

DEPUTY PRESIDENT: 18 against 18, I give my vote against the motion, because the casting vote is always in favour of the continuance of the existing state of things.

The motion was declared lost.

The Council adjourned for lunch at 2-10 P. M. and reassembled at 3 P. M., the Deputy President presiding.

Motion 265.

MR. G. NARAYANA PILLAI (*Tiruvalla*): Sir, I beg to move the following motion:—

265. To reduce the allotment of Rs. 92,900 for Criminal Courts by Rs. 100.

My object in bringing this motion is to invite the attention of the Government to the unsatisfactory state of the present location of the Magistrates' courts, especially with reference to the absence of a Magistrate's court at Tiruvalla. Tiruvalla had its own Magistrate's court for a long time. At one time, there were two courts there—a First Class Magistrate's court and a Stationary Magistrate's court. Latterly, the Tahsildar who also was the First Class Magistrate was

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[Mr. G. Narayana Pillai.]

divested of his magisterial functions and the Stationary Magistrate was transferred elsewhere. Now, Tiruvalla has no Magistrates' court and the consequence is that people are put to very great inconvenience. Tiruvalla is one of the most populous taluks in the State, and the importance of the town of Tiruvalla in several respects cannot be denied.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Is it with reference to this question that a deputation waited on the Dewan recently?

MR. G. NARAYANA PILLAI (*Tiruvalla*): Yes. I do not know if there is any other Municipal town of the size and importance of Tiruvalla which has not its own Magistrate's court.

Changanachery whose Magistrate's court was taken away some time back is given back that institution and I fail to see why the repeated requests of the people of Tiruvalla alone have not yet received a favourable consideration at the hands of the Government. In answer to an interpellation of mine at a prior session of this Council, it was stated that the matter of establishing a Magistrate's court at Tiruvalla was under the consideration of the Government. But I do not know what decision has been arrived at on the subject. In the interests of the taluk and for the safety of the person and property of the law-abiding citizens of the taluk, it is highly desirable that the Government should speedily come to a decision and grant back to Tiruvalla its Magistrate's court at an early date. With these remarks, I submit the motion for the consideration of the House.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, since the Member's motion did not specifically point out the object in the notice of the motion, I am not able to answer the point definitely at present. However, as I understand that a deputation very recently waited on the Dewan, the matter will engage the immediate attention of the Government. I hope that must satisfy Mr. Narayana Pillai.

MR. G. NARAYANA PILLAI (*Tiruvalla*): In the light of the explanation given by Mr. Paramesvaran Pillai, I withdraw the motion.

DEPUTY PRESIDENT: Does the House permit the motion to be withdrawn?

The motion was, by leave of the House, withdrawn.

16 D. ADMINISTRATION OF JUSTICE—LAW COLLEGE AND HOSTEL.

Motion 266.

The following motion was not moved:—

MR. K. P. NILAKANTA PILLAI:

266. To reduce the allotment of Rs. 9,646 for Law College and Hostel by Re. 1.

16 F. ADMINISTRATION OF JUSTICE—LAW'S DELAYS COMMITTEE.

Motion 267.

MR. C. P. TARAKAN (*Kunnatnad*): Sir, I beg to move the following motion:—

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267. To omit the allotment of Rs. 1,840 for establishment.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Sir, the subsequent motions comprise a larger field.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): There is one motion standing against the name of Mr. Kallur Narayana Pillai which has as its object the omission of Rs. 10,369 allotted for the Law's Delays Committee.

MR. C. P. TARAKAN (*Kunnatnad*): I do not then move the motion.

DEPUTY PRESIDENT: What is the amount allotted for this Committee?

MR. R. NILAKANTA PILLAI (*Ag. Financial Secretary to Government*): The allotment is more than Rs. 30,000.

MR. G. PARAMESVARAN PILLAI (*Neyattinkara*): It is a votable item.

MR. R. NILAKANTA PILLAI (*Ag. Financial Secretary to Government*): The whole amount is not votable. The votable amount is only Rs. 10,369.

DEPUTY PRESIDENT: That is a larger amount. Hence that should be taken up first.

Motion 271.

MR. KALLUR NARAYANA PILLAI (*Pattanamtitta*): I move the following motion:—

271. To omit the allotment of Rs. 10,369 for Law's Delays Committee.

തിരുവിതാംകൂറിലുള്ള സിവിൽക്കോടതികളിൽ ഉണ്ടായിക്കൊണ്ടിരിക്കുന്ന കുടിശ്ശിക കേസുകൾ തീർക്കുന്നതിന് ഒരു പരിഹാരമാർഗ്ഗം എന്താണെന്നു ഹൈക്കോടതിയുടെ ആലോചനയിൽ പെട്ടിരിക്കുന്നതായി കാണുന്നു. ഇതിനെ സംബന്ധിച്ചു കുടിശ്ശിക തീർക്കുന്നതിന് ഒരു കമ്മിറ്റി ഏർപ്പെടുത്തി അതിൽ വേണ്ട വിചാരണനടത്തി ചെയ്യേണ്ടതാണെന്ന് എനിക്കു തോന്നുന്നില്ല. ഇതിലേക്ക് ഇത്രവളരെ ഭീമമായ ഒരു സംഖ്യ ഈ കമ്മിറ്റിക്കു വേണ്ടി ചിലവാക്കേണ്ട ആവശ്യമില്ല എന്നാണ് എന്റെ അഭിപ്രായം. ഇതിനെ സംബന്ധിച്ചു വേണ്ടവിധത്തിൽ അറിയുന്നതിന് ഇതുപോലെയുള്ള ഒരു കമ്മിറ്റി ബ്രിട്ടീഷ് ഇൻഡ്യയിൽ ഏർപ്പെടുത്തീട്ടുള്ളതും ആ കമ്മിറ്റിയുടെ റിപ്പോർട്ടിന്റെ പകർപ്പ് ഹൈക്കോടതിയിൽതന്നെ ഉള്ളതുമാകുന്നു. ആ റിപ്പോർട്ടിനെ പരിശോധിച്ച് അതിനെ അടിസ്ഥാനമാക്കിയുള്ള ഒരു റിപ്പോർട്ട് ഇവിടെ തയ്യാറാക്കുന്നതിന് ഒരു ഹൈക്കോടതിജഡ്ജി ദിവസം രണ്ടുമണിക്കൂർവീതം വ്യയംചെയ്താൽ സാധിക്കുമെന്നുള്ളതിനാൽ ഇത്രവലിയ ഒരു സംഖ്യ ഈ

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[Mr. Kallur Narayana-Pillai.]

കമ്മിറ്റിക്കുവേണ്ടി ചിലവുചെയ്യേണ്ട ആവശ്യമില്ല എന്നുള്ള എന്റെ അഭിപ്രായത്തെ ഗവർണ്മെൻറിനെ അറിയിക്കാനാണ് ഈ മോഷൻ കൊണ്ടുവന്നിട്ടുള്ളതു്.

MR. C. P. TARAKAN (*Kunnatnad*) : മിസ്റ്റർ നാരായണപിള്ളയുടെ അഭിപ്രായത്തോടു ഞാൻ പൂർണ്ണമായി യോജിക്കുന്നു. ഇത്രവളരെ പണം ചിലവുചെയ്തു് ഒരു കമ്മിറ്റി ഏർപ്പെടുത്തേണ്ട ആവശ്യമില്ലാ. ബ്രിട്ടീഷ്ഇൻഡ്യയിലും മറ്റും ഇതേസംഗതിയേസംബന്ധിച്ചു് കമ്മിറ്റി ഏർപ്പെടുത്തീട്ടുള്ളതിനാൽ അവയുടെ റിപ്പോർട്ട് നമുക്കു വായിച്ചുനോക്കി ഇവിടത്തെ സ്ഥിതിക്കു യോജിച്ച ഒരു റിപ്പോർട്ട് തയാറാക്കുന്നതിനു പല സൌകര്യവും ഉണ്ടായിരിക്കുന്നസ്ഥിതിക്കു ഒരു കമ്മിറ്റി വേണമെന്നില്ലെന്നാൽതന്നെയും ഇത്ര ദീർഘകാലത്തേക്ക് ഇത്ര വലിയ ശമ്പളത്തിലുള്ള ഒരുദ്യോഗസ്ഥനെക്കൊണ്ടും ആ കമ്മിറ്റിയെക്കൊണ്ടും യാതൊരാവശ്യവുമില്ലാ. ഇപ്പോഴത്തെ ബഡ്ജറ്റിൽ കാണുന്നതു് കമ്മിറ്റിപ്രസിഡൻറിന് ഫർലോ ശുപാവീതം ശമ്പളംകൊടുത്തു് വൃ മാസത്തേക്കു നിയമിക്കണമെന്നാണ്. എന്നാൽ ഇങ്ങിനെ മാസക്രമത്തിനു ശമ്പളം വച്ചിരിക്കുന്നതിനാൽ എട്ടുമാസം കഴിയുമ്പോൾ അതു ക്രമേണ ദീർഘിപ്പിച്ചുകൊണ്ടുപോകുവാൻ ആ പ്രസിഡൻറു ശ്രമിക്കുവാനിടയുണ്ടു്.

DEPUTY PRESIDENT : You cannot expect such a highly paid officer to prolong it on that account.

MR. C. P. TARAKAN (*Kunnatnad*): We know as a matter of fact that even such a high personage as the Chief Justice of the High Court applies for an extension of his period of service.

DEPUTY PRESIDENT : The one has nothing to do with the other.

MR. C. P. TARAKAN (*Kunnatnad*) : അതിനാൽ മാസശമ്പളക്രമത്തിൽ നിയമിക്കുന്നതു ന്യായമായിരിക്കുകയില്ല. മാസശമ്പളം പ്രസിഡൻറിനു കൊടുക്കാമെന്നു തീർച്ചയാക്കുന്നപക്ഷം നിശ്ചയമായും ഇപ്പോഴത്തെ സംഖ്യകൊണ്ടു സംഗതി നടക്കാതെ വരുന്നതിനും ചിലവു വളരെ അധികമായി വർദ്ധിക്കത്തക്കവിധത്തിൽ കാലംദീർഘിച്ചുപോകാനും ഇടയുണ്ടെന്നാണു ഞാൻ ഭയപ്പെടുന്നതു്. ഇപ്പോൾ കമ്മിറ്റിപ്രസിഡൻറായി ഗവർണ്മെൻറുദ്ദേശിച്ചിരിക്കുന്ന ആളെ സംബന്ധിച്ചു് എനിക്കുള്ള അതൃപ്തിയെ പ്രദർശിപ്പിക്കാൻ—

DEPUTY PRESIDENT : That too is irrevalent. We do not know who is going to be appointed. I rule it out of order.

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MR. C. P. TARAKAN (*Kunnatnad*): I submit to your order.

DEPUTY PRESIDENT: The necessity for a committee and the budget allotment therefor have alone to be considered.

MR. C. P. TARAKAN (*Kunnatnad*): അതിനാൽ ഇങ്ങിനെയുള്ള വലിയസംഖ്യ ചിലവുചെയ്യ ഒരു കമ്മിറ്റി ഏർപ്പെട്ടത്തേണ്ട ആവശ്യമില്ല എന്നുള്ള മിസ്റ്റർ നാരായണപിള്ളയുടെ അഭിപ്രായത്തോടുകൂടി യോജിച്ചു കൊള്ളുന്നു.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): I rise to support the motion. I do not find the necessity for such a committee at all. If an investigation is undertaken, that will only retard the progress. If such a committee is necessary, I think it may be done by other means which would not involve such a heavy expenditure. Information as to the cause of the law's delays can be gathered through carefully framed questionnaire from Judges and Munsiffs of our courts. One of the Judges of the High Court may be deputed for this purpose and he may be asked to draw up a report. The Judge will be able to do it without giving rise to such a heavy expense. The reports published in British India and in Mysore on the same subject will greatly help him because the conditions here, to my mind, are not substantially different from the conditions of those places.

The figures in the budget show that the President of the Committee is to get Rs. 1,200 per mensem, another official member is to get Rs. 700 plus Rs. 140 per mensem and a Secretary is to get Rs. 400 plus 80 per mensem Along with that, the cost of the staff is also mentioned there. The total cost of this committee is found to amount to a big sum, *viz.*, about Rs. 30,700. Looking at these figures, some taxpayers are of opinion that such an enormous expenditure is not at all necessary, and as such, I have no hesitation to affirm that the proposed committee is not at all necessary. With these words, I support the motion.

MR. C. KERALAVARMA KOILTAMPURAN (*Edavagai*): ഞാൻ ഈ ഉപക്ഷേപത്തെ എതുക്കുന്നു. ഈ സഭയിൽനിന്നു തന്നെ അനേകം കമ്മിറ്റികളെ ഏർപ്പെട്ടത്തീട്ടുണ്ട്. എന്നാൽ അതിനെ എല്ലാത്തിനെക്കാളും അതിപ്രധാനവും, അത്യാവശ്യവുമായ ഒരു കമ്മിറ്റിയാണ് 'ലാസ് ഡിലേസ്' കമ്മിറ്റി എന്ന് എനിക്കുതോന്നുന്നു. കേസുകൾ തീരുമാനിച്ചു കിട്ടുന്നതിലും അതു സംബന്ധിച്ചുള്ള നടപടികൾ നടത്തികിട്ടുന്നതിലും കാലതാമസം നേരിടുന്നതു നിമിത്തം സാധുക്കളായ പലർക്കും ഉപദ്രവവും കഷ്ടപ്പാടുകളും ഉണ്ടാകുന്നുണ്ട്. ഇതിനുമുമ്പുതന്നെ ഗവർണ്മെൻറ് ഇങ്ങിനെ ഒരു കമ്മിറ്റി ഏർപ്പെട്ടത്തേണ്ടതായിരുന്നു എന്നാണ് എന്റെ അഭിപ്രായം. തൊഴിലില്ലായ്മയെ പരിഹരിക്കുന്നതിനും, അ

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[Mr. C. Keralavarma Koiltampuran.]

ധ്യാപകന്മാരുടെ ശമ്പളം വർദ്ധിപ്പിക്കുന്നതിനും മറ്റുമായി ഗവർണ്മെൻറു കമ്മിറ്റികളെ നിശ്ചയിക്കാൻ തീച്ചപ്പെടുത്തിയല്ലോ. എന്നാൽ അതു കൊണ്ടുണ്ടാകുന്ന ദോഷങ്ങൾക്കെല്ലാം ഒരതിരുണ്ട്. എന്നാൽ ഇതു സാധുക്കളായ വളരെ ജനങ്ങളെ ബാധിക്കുന്ന ഒരു സംഗതിയാണ്. ഈ കമ്മിറ്റിക്കു നിശ്ചയിച്ചിട്ടുള്ള ചിലവു് ഒരു വലിയ തുകയാണെന്നു് ഒരിക്കലും വിചാരിക്കാൻ നിവർത്തിയില്ല. കുറെക്കൂടുതൽ ചിലവു നേരിട്ടാലും ഇതു് എത്രയോ അത്യാവശ്യമാണെന്നാണു എന്റെ അഭിപ്രായം. ബ്രിട്ടീഷ് ഇൻഡ്യയിലും മറ്റും ഇതിലേക്കു കമ്മിറ്റി ഏർപ്പെടുത്തീട്ടുള്ളതിന്റെ തീരുമാനമറിഞ്ഞിട്ടു് അതനുസരിച്ചു പ്രവർത്തിച്ചാൽപോരെ എന്നു ചിലർ അഭിപ്രായപ്പെടുകയുണ്ടായി. ബ്രിട്ടീഷ് ഇൻഡ്യയിലേയും ഇവിടത്തേയും സ്ഥിതി ഒരുപോലെയല്ല. അവിടെ ഏർപ്പെടുത്തീട്ടുള്ള കമ്മിറ്റിയുടെ തീരുമാനവും ഇവിടെ ഏർപ്പെടുത്തുന്ന കമ്മിറ്റിയുടെ തീരുമാനവും തമ്മിൽ താരതമ്യപ്പെടുത്തി അതിൽ ഏതാണോ ഗുണകരമായിട്ടുള്ളതു് അതനുസരിച്ചു പ്രവർത്തിക്കുന്നതുകൊണ്ടു ദോഷം ഒന്നും ഉണ്ടാകയില്ല. പിന്നെ ഈ കമ്മിറ്റി കുറെക്കാലത്തേക്കു നീണ്ടുപോയേക്കുമോ എന്നൊരു സംശയം ചിലർക്കുണ്ടായിട്ടുണ്ടു്. അപ്രകാരം സംഭവിക്കാതെയിരിക്കത്തക്കവണ്ണം അതിലേക്കു യോഗ്യന്മാരായ ആളുകളെ മാത്രമേ ഗവർണ്മെൻറു നിശ്ചയിക്കയുള്ളൂ. അങ്ങിനെയുള്ള ഒരാളിനെ നിയമിച്ചാൽ ശമ്പളത്തിനു വേണ്ടി കമ്മിറ്റിയുടെ കാലാവധി നീട്ടിക്കൊണ്ടിരിക്കുമെന്നു ഞാൻ വിചാരിക്കുന്നില്ല. അതുകൊണ്ടു് ഈ കമ്മിറ്റി അത്യാവശ്യമാണെന്നാണു് എന്റെ അഭിപ്രായം.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): മലബാറിൽ എത്ര കേസുകൾ ഉണ്ടെന്നറിയാമോ?

MR. C. KERALAVARMA KOILTAMPURAN (*Edavagai*): അതെനിക്കറിയാൻപാടില്ല. ഒട്ടവളരെ കാണുമായിരിക്കാം.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): ബ്രിട്ടീഷ് ഇൻഡ്യയിൽ ഏർപ്പെടുത്തീട്ടുള്ള കമ്മിറ്റിയുടെ റിപ്പോർട്ടു വായിച്ചിട്ടുണ്ടോ?

MR. C. KERALAVARMA KOILTAMPURAN (*Edavagai*): വായിച്ചു കാണും.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): മെമ്പർ വായിച്ചിട്ടുണ്ടോ?

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MR. C. KERALAVARMA KOILTAMPURAN (*Edavagai*): "ഞാൻ വായിച്ചുകാണും" എന്നു പറഞ്ഞാൽ ഞാനല്ലാതെ പിന്നെ മറാരാണ്?

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): അതിൽ, ലാസ്ഡിലേസ് കമ്മിറ്റി വ്യവഹാരങ്ങൾ തീരുമാനിക്കുന്നതിനെപ്പറ്റി പറഞ്ഞിട്ടുള്ള കാരണങ്ങളിൽ വല്ലതും ഈ രാജ്യത്തെ കേസുകൾക്കുണ്ടാകുന്ന താമസത്തിനു യോജിച്ചതാണെന്നറിയാമോ?

MR. C. KERALAVARMA KOILTAMPURAN (*Edavagai*): ചിലതു് അങ്ങനെയുംകാണും.

MR. M. SIVATANU PILLAI (*Tovala*): ബ്രിട്ടീഷ് ഇൻഡ്യയ്ക്കും ഇവിടത്തേക്കും വ്യത്യാസമുണ്ടെന്നു പറഞ്ഞല്ലോ, ഉദാഹരണം പറയാമോ?

MR. C. KERALAVARMA KOILTAMPURAN (*Edavagai*): പലതുമുണ്ടു്.

MR. M. SIVATANU PILLAI (*Tovala*): ഒന്നെങ്കിലും പറയാമോ?

MR. C. KERALAVARMA KOILTAMPURAN (*Edavagai*): അങ്ങിനെ പ്രത്യേകം എടുത്തുപറയാൻ സാധിക്കയില്ല. വ്യത്യാസമുണ്ടെന്നാണു് എന്റെ വിശ്വാസം.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I also cannot support the motion in its entirety. The sum allotted for this purpose is of course too much; the President of the Committee is proposed to be paid Rs. 1,200 per mensem.

DEPUTY PRESIDENT: We are not concerned with the pay of the President of the committee. We are concerned only with the establishment, because it is a votable item.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Am I not allowed to discuss the general policy in this motion?

DEPUTY PRESIDENT: You cannot discuss the general policy.

It is not a token motion.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): Can we not discuss the pay of the Dewan in a cut motion?

DEPUTY PRESIDENT: You have nothing to do with that now. The general policy can be discussed only in a token motion.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): As the general policy is not to be discussed in this connection, I have not much to say. I may just mention that the amount that has been allotted for this committee is too much and that the expenditure to be incurred must be reduced somehow or other.

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MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Does Mr. Joseph think that the sum of Rs. 7,000 allotted for travelling allowances is necessary? Does Mr. Joseph think that the committee should go out always as a roving commission?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): It may not be quite necessary for all the members to travel. But it may be good if some of the members go about and understand the actual causes of delay in some of the courts. Therefore, we cannot say that the sum is absolutely unnecessary. I may say that the whole amount may not be required for the purpose.

I am of opinion that the whole amount asked for by the Government for this committee should not be allowed. But I do not agree with the mover when he says that there is no necessity for such a committee. As regards the reports of similar committees in Mysore and other places, I may say that our local conditions may be different from the conditions prevailing in those places. For that matter, I may even say that the conditions in South Travancore may differ from those in North Travancore. The mentality of the litigant public and other circumstances very often go to add to the delay in the proceedings in courts.

MR. M. SIVATANU PILLAI (*Tovala*): May I know from the member whether we are concerned with the procedure adopted in the courts or with the mentality of the litigant public?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): The procedure actually followed in the courts very often depends upon the mentality of the clients who make use of the procedural law.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Does the member recommend any change on that account in the Civil Procedure Code to suit North Travancore and South Travancore separately?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I say that the conditions in Mysore and Madras may be different from the conditions existing here.

MR. M. SIVATANU PILLAI (*Tovala*): May I know whether he includes surgical operations in the committee's purpose?

DEPUTY PRESIDENT: What have we to do with that?

MR. M. SIVATANU PILLAI (*Tovala*): Inasmuch as the member referred to the mentality of the litigant public, I asked this question.

DEPUTY PRESIDENT: That is absolutely irrelevant. I rule it out of order.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Does the member mean to say that the Civil Procedure Code adopted here and that adopted there are substantially the same?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Yes.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Does he also mean to say that the practice adopted in the administration of justice in courts is entirely the same here as well as in Mysore and Madras?

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MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Substantially the same.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I know whether the reason for the law's delays is the same in one district in Travancore as compared with another?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I cannot give a definite answer to that question now.

MR. M. SIVATANU PILLAI (*Tovala*): May I know from the member whether he is aware of the fact that a committee was found necessary even when the old Civil Procedure Code was in force?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Yes. I understand.

MR. M. SIVATANU PILLAI (*Tovala*): May I know whether the necessity still continues?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): The committee can make use of the report submitted by the Madras and Mysore committees. But some local investigation with regard to the actual working of the courts in the State may also be made.

MR. M. SIVATANU PILLAI (*Tovala*): If so, will the member explain the working of the committee?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): The committees must understand the actual working of the courts in the State.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I know whether the practice obtaining in the civil courts here is different in different courts?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I am not saying that the law or practice relating to procedure is different in the various courts. I only say that the actual working may differ in detail.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Does it not depend on the personnel as regards the detailed working?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): It depends very much on the personnel?

DEPUTY PRESIDENT: I have no objection to any number of questions being put. But there are only 20 minutes more and there are many more members to speak.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): May I know whether according to the scheme that he has apparently in mind, he could support this motion for the reduction of this part amount. In other words, would he be satisfied by a reduction of this amount or larger amount or less amount?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): The portion asked to be reduced or rather omitted is the total amount allotted for establishment.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): Thirty thousand being the total allotment this would be reduced.

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MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I have no objection for this amount of money being reduced out of the total allotment of thirty thousand rupees. But the motion as it stands cannot be supported. I am of opinion that a committee is necessary, but the expenditure need not go so high. It may be sufficient if a non-official member is made the President of the committee and a small amount paid as honorarium to the President. It is not necessary that there should be such a highly paid President.

Another point that I would like to mention is that this matter was brought to the notice of the public long before and the Vakils' Associations were asked to elect a few persons as members of the committee. On that occasion, neither the vakils nor the public stated any objection against the appointment of a committee.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Was there any difference of opinion as regards the appointment of the committee?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I must finish. My time is limited. About 47 members of the High Court Vakils' Association were eager to elect a member to represent them. I do not therefore understand the meaning of some persons coming now and urging at this late stage to do away with this committee altogether. This is a very important matter to be considered in this connection, because, if there was any difference of opinion on the merits of the question, I believe, it would have been raised earlier by the public. I wonder why people now come forward and object to the measure when the Government have considered the question and made arrangements without meeting with any opposition from the public.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): Had they any idea as to the expenditure that would be incurred?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I strongly object to such a large sum being spent on this account. I only say that a committee is required and that the amount for the establishment should not be omitted altogether. A committee and certain amount of money are necessary. The present allotment of course is too much.

MR. M. SIVATANU PILLAI (*Tovala*): Am I to understand that because there was no non-coperation from the Bar, the members approved of the scheme?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): There was no opposition from the vakils even when they were asked to elect a member and thus had a fine opportunity to express their opinion in the matter.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Sir, there is not the least doubt that the intention of the Government as revealed in the provisions in the budget and in various other ways has not at all met with public approval. There is no doubt about the fact that there is a great deal of delay in the administration of law. But the way in which the Government seem to have set about remedying this

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evil, it is widely feared, may be productive of far more evil than good. It sometimes happens that well-meant measures of reform not only perpetuate but accentuate the evils complained of. As an example, I may mention—I do not know whether I would be right in citing it—the Civil Courts' Guide about which I have been assured by an experienced lawyer that it is simply complicating matters and making it more and more difficult to administer justice. If, as the result of the proposed committee, another document or even a worse document bristling with all the evils complained of is to be produced, I am sure neither the President nor the persons concerned would be congratulated by the people.

DEPUTY PRESIDENT: Can anything be done without the Legislative Council? I think the report will have to come to this Council.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): After all, it is very little that this Council can do. In the initial stages, care must be taken that those who are responsible for shaping the measure are not men who may be considered to be fossils who may have their own preconceived notions and whose personality does not command universal or even limited respect. If the Government are going to pick out such persons and to pitchfork them into positions for which the general opinion is that they are the least fitted—

DEPUTY PRESIDENT: The question is whether such a costly committee is necessary. I think you are not in order in referring to persons.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): I am speaking hypothetically.

DEPUTY PRESIDENT: We have nothing to do with hypothetical cases.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Is a member not at liberty to assign his reasons for voting against a particular grant?

DEPUTY PRESIDENT: He can say that a committee is not necessary or that a costly committee is not necessary.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): He is therefore at liberty to state his reasons in support of his position?

DEPUTY PRESIDENT: He is not at liberty to refer to persons.

MR. K. MADHAVAN PILLAI (*Trivandrum cum Neduvangad*): There are no persons by names referred to.

DEPUTY PRESIDEAT: That is my ruling.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): I speak of fossils.

DEPUTY PRESIDENT: He has got somebody in view and he wants to express his opinion about him. That, I say, is out of order. (*Laughter.*)

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MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): The Government need not be bound by the opinion of this Council. They have got a constitutional right to ignore the decision of this House. But I would respectfully submit that when once the general sense of the House is ascertained, it will be very regrettable if the Government go counter to it.

DEPUTY PRESIDENT: That is when the nomination of members of the committee is made. Here we are concerned with the question whether a committee is necessary or not.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Though there may be doubts about the minor points, every member who has spoken has expressed in some way or other his strong disapproval of this item. If the Government were to pay any attention to the almost unanimous opinion of the non-official side of this House, the intention of the Government must be reconsidered and the scheme should be recast. As it is, the amount budgetted for is out of proportion to the requirements of the case. We have had a very efficient and competent committee in British India to consider this question and they have submitted a report. For example, if in making our laws, we redraft all the codes without any reference to the British Indian codes, it would involve a lot of labour and the production will be unsatisfactory. What we have to do is to set apart a High Court Judge who will get the opinion of the experienced District Judges and eminent lawyers and formulate a scheme, and a Full Bench of the High Court may sit over the scheme. If there is a costly machinery, consisting of a highly paid officer and members, peons and clerks and all other paraphernalia, touring through the country, it will be beneficial to no one.

DEPUTY PRESIDENT: A single Judge will get Rs. 900 plus deputation allowance.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): A competent person like the Deputy President might be requested to do it.

DEPUTY PRESIDENT: Certainly, I would not. I may assure the member that I would not undertake the task.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): I am speaking only hypothetically. I say that anybody who wishes to serve his country and who may be a competent person and who will be prepared to place his experience and knowledge at the disposal of the public may be appointed. He will bring all the connected papers together and summarise them and prepare a rough scheme and place it before the High Court or publish it in the papers and invite opinions. In any case, I would emphatically assert that in the almost unanimous opinion of the non-official side of the House, and I may also say of the whole country, the intention of the Government as revealed in the provisions of the budget is altogether unsuited to the country. Therefore, I hope the matter will be reconsidered and an altogether new scheme will be brought forward.

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MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): How does Mr. Mammen Mappillai assure that there is unanimous public opinion against the committee as contemplated by the Government?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Nobody can positively say what the real public opinion is on any question. Everybody is at liberty to form his own conclusion, which may or may not be right, as to the public opinion in regard to a particular matter, from his own standpoint.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, in regard to the existence of the evil of what is called, "Law's Delays" and the need for a remedy for the same, there seems to be little or no difference of opinion. These are conceded by everybody. It is also evident from the fact that we have had to maintain temporary courts year after year. The present dispute appears to centre round the method of the remedy that ought to be employed in curing this evil. In regard to that matter, the Government have come to the conclusion of course, subject to the vote of this House—that a committee should be appointed to ascertain the causes of the "Law's Delays" and to suggest measures to remedy the same. One objection that has been urged against this course is that there has already been a similar committee in British India, that the report submitted by that committee could be made use of by us and that that could be and ought to be taken as a sufficient or even the sole guide for our action here. I am prepared to concede that this is a viewpoint worth considering; and, as a matter of fact, the Government did consider this aspect of the question. But, naturally, in matters like this, the Government have to act on the advice given by the High Court which is the body vested with the duty of administering justice in the country.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Is the Law Member aware of certain interpellations sent by me asking why the Government could not make use of the report of the Civil Justice Committee of British India?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, I have read those interpellations.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I know why the Government did not answer those interpellations?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): First of all, that question does not arise at present. Further, I am not in a position to mention the reasons for not answering them.

The Government referred the matter to the High Court and asked them whether we could make use of the report of the British Indian Civil Justice Committee. The High Court considered the question and came to the conclusion that it will take a long time for them to study and consider the applicability of the report of the British Indian Civil Justice Committee and that it will be needlessly expensive for the purpose in hand, that the conditions in Travancore are not quite similar to the conditions in British India and that therefore a special

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[Mr. Kayyalam Paramesvaran Pillai.]

committee should be appointed to investigate the whole question and make a report as to the causes of law's delays and the proper remedies for the same. My friend Mr. Mammen Mappillai was suggesting that a Full Bench of the High Court consisting of 6 Judges might be asked to consider the question.

MR K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): I think, Sir, I must explain what I said. What I said was that one competent officer—a Judge of the High Court for instance—could be asked to investigate the question, to consider the report of the British Indian Committee, to examine the necessary papers and to formulate a scheme that should be the skeleton of the scheme and that the report of such a person might be considered by the Full Bench of the High Court.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): With regard to the deputation of a single officer for this kind of work, Sir, I may say that I doubt very much whether the people of the country will be satisfied with the views and opinion of any one single person. These are days of democratic movement and it is absolutely necessary that such matters so directly affecting the interests of the people as a whole ought to be considered by a committee that will carry the confidence of the public.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I know whether in the framing of the Civil Courts' Guide the procedure adopted by the High Court was the deputation of one of their Judges ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): First of all, that question does not arise now. Moreover, the Civil Courts' Guide is intended only to regulate the procedure of courts. That is to say, with the internal management of the courts in the matter of procedure only. Therefore, that hardly requires such a consideration as should be given to the present matter. Our present question is about the delay in the administration of justice, the causes that lead to the same and the remedies that have to be applied to remove the evil. The remedies must be acceptable to the public.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I draw the attention of my friend Mr. Kayyalam Paramesvaran Pillai to what he has said on a previous occasion? This is what he has said :

"The matter is engaging the attention of the British Government where a committee was appointed to look into the question of 'Law's Delays'. Their report is now engaging the attention of the authorities there. It will be probably very expensive, and it is not at all necessary for us, to appoint a committee of that sort here, because our system is so much based upon the system prevalent in British India, and when the British system is to undergo a change, we had better wait until they come to a decision. After that, we may consider whether we cannot adopt their system. Until then, it seems to me too early to pronounce any opinion on this matter".

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, I remember that. That is the reason why, while referring the matter to the High Court, it was suggested to them that they

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might consider, before making their recommendations, the report of the British Indian Committee. But the High Court have stated that their consideration of the report of the British Indian Committee at present would mean much time and would therefore be needlessly expensive.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Does not the final responsibility on the matter lie with the Government?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): In view of that fact, was it not incumbent upon the Government to pay more attention to that aspect of the question?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The matter was considered and was referred to the High Court; and the High Court did consider it too; and the High Court have recommended after due consideration of the question that the best course would be to appoint a committee.

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara cum Kunnattur*): Did the High Court recommend such a costly committee?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): They recommended a committee and they also said that one of the High Court Judges might be put on the committee as President. The present committee is practically based on the recommendation of the High Court.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Is it not sufficient if one of the Judges of the High Court is asked to go into the question, to collect materials by sending out questionnaire to all important persons connected with the administration of justice and to formulate some proposals for remedying the evil, instead of a costly committee consisting of five members together with all these establishment charges?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): A detailed enquiry has to be made, and I do not think a single Judge of the High Court can do the work satisfactorily.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Would it not be enough if the report of such an officer is published in the Gazette and the general opinion and criticism elicited considered finally by the High Court or by a smaller committee which need not work for more than a month or a few weeks? I am sure this will reduce the expenditure considerably.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Even that will be hardly sufficient in such an important matter like this.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Did the High Court say that the British Indian committee's report cannot be accepted by us in Travancore or that they had no time to consider it?

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MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): This is what the High Court has said in their recommendation to Government. The letter of the Registrar says

"The Judges of the High Court cannot find time to consider the suggestions of the said committee without detriment to their judicial work, and as the conditions in Travancore are different from those prevailing in British India and as the question under reference is an important one, the High Court are of opinion that all the aspects of the administration of civil justice in Travancore should be considered by a committee. I am therefore directed to recommend that a small committee (not exceeding five in number) with one of the Judges of the High Court as President be appointed to consider the applicability of the recommendations of the civil justice committee to Travancore."

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I know on what particular points, according to the High Court, there is similarity between the conditions here and in British India?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I have read out the whole of the material portion of their letter.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Do they say that there is difference between Travancore and British India in the matter of administration of law and justice or in the climatic conditions or in some other matter? What is the particular matter in regard to which they say there is difference between Travancore and British India?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Administration of justice, of course; there can hardly be any doubt about that.

MR. M. SIVATANU PILLAI (*Tovala*): May I know in what matters Travancore differs from British India?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The High Court has suggested that there is some difference between the conditions in Travancore and British India. They say expressly that the conditions are not exactly similar in all respects.

MR. M. SIVATANU PILLAI (*Tovala*): Will he give an example?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Say, the suits under the Jenmi Kudian Regulation or under the *marumakkathayam* Law, for instance.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): Had they a separate committee for British Malabar or was there only one committee for the whole of British India?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): There was only one committee for the whole of British India including British Malabar.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Does he think that the Law's Delays Committee should have anything to do with changes in the *marumakkathayam* Law?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Certainly not in the law. I referred to that only as an instance of a class of suits peculiar to Travancore. My only point was

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that in regard to the trial and disposal of suits in connection with the *Marumakkathayam* Law or under the Jenmi Kudiyan Regulation, peculiar remedies may possibly have to be provided to avoid delays.

MR. M. SIVATANU PILLAI (*Tovala*): Am I to understand that the Civil Procedure Code does not extend to the *Marumakkathayam* Law or to the Jenmi Kudiyan Regulation?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I did not say that at all.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): Is it the opinion of the High Court that none of the remedies suggested by the British Indian committee is applicable to Travancore?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I have already read out to the House the whole of their recommendation.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): How far, in the opinion of the High Court, is the recommendation of the British Indian committee applicable to Travancore?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The High Court have not considered the applicability of the report of the British Indian committee.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): Have they tried any of the remedies suggested by the British Indian committee and found that they are not applicable to conditions in Travancore?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Without considering the several recommendations of the British Indian committee, they say that, *prima facie*, there is difference between the conditions of Travancore and of British India and that therefore their report could not be accepted as such or in its entirety.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): My point is that, even though there may be difference in some matters between Travancore and British India, some of the remedies suggested by the British Indian Committee might be found to be applicable to the conditions in Travancore also.

DEPUTY PRESIDENT: Having considered that the appointment of a committee was necessary for the purpose, the High Court might have thought that they need not waste their time in considering the remedies suggested by the British Indian Committee.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): I am asking whether, before we appoint a committee, we should not try the remedies suggested by the British Indian Committee, and resort to the appointment of the committee only if it is found, as a result of our trial, that they do not apply to conditions in Travancore.

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MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : So far as Mr. Changanachery Paramesvaran Pillai's point is concerned, I have nothing further to add.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*) : In view of the trend of public opinion in this House, will the Law Member undertake to ask the High Court to reconsider the question and to state whether they could not be satisfied with a less costly machinery.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : If the opinion of the Council is to that effect, the Government will certainly consider that opinion. But the trend of the opinion of the House has yet to be ascertained. As it is, the Government have to take it that the High Court Judges know that the conditions here and in British India are different, implying thereby that some special enquiry is necessary for conditions here.

MR. K. MADHAVAN PILLAI (*Trivandrum cum Neduvangad*) : Do they make any special recommendations in reference to Malabar or British India ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : The conditions existing in British India are inapplicable to Travancore, that is what the High Court say.

DEPUTY PRESIDENT : The time is up, and I shall proceed to put the motion to the vote. Do you press your motion, Mr. Kallur Narayana Pillai ?

MR. KALLUR NARAYANA PILLAI (*Pattanamtitta*) : I press it.

The motion was put to the vote of the House and carried, 20 voting *for* and 18 *against*.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : I demand a poll.

A poll was taken with the following result :—

AYES—21.

1. Mr. Paul Daniel.
2. „ A. J. John.
3. „ X. G. Lopez.
4. „ C. P. Kochukunju Pillai.
5. „ T. Kumara Pillai.
6. „ Tariatu Kunjitomman.
7. „ K. Madhavan Pillai.
8. „ K. C. Mammen Mappillai.
9. „ T. J. Matthew.
10. „ G. Narayana Pillai.
11. „ Kallur Narayana Pillai.
12. Mr. P. K. Narayana Pillai.
13. „ K. P. Nilakanta Pillai.
14. „ M. N. Pillai.
15. „ G. Paramesvaran Pillai.
16. „ Changanachery K. Paramesvaran Pillai.
17. „ G. Raman Menon.
18. „ K. Sivarama Panikkar.
19. „ M. Sivatanu Pillai.
20. „ C. P. Tarakan.
21. „ C. P. Thomas.

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NOES—19.

1. Mr. I. C. Chacko.
2. ,, R. Dhanukoti Pillai.
3. ,, K. George.
4. ,, K. I. Joseph.
5. ,, C. Keralavarma Koil Tampuran.
6. ,, R. K. Krishna Pillai.
7. ,, R. Krishnaswami Aiyar.
8. ,, N. Kumaran.
9. Dr. N. Kunjan Pillai.
10. Mr. K. V. Natesa Aiyar.
11. ,, R. Nilakanta Pillai.
12. Mr. Kayyalam Parameswaran Pillai.
13. Mrs. M. Poonen Lukose.
14. Mr. T. P. Ramasubba Aiyar.
15. Rao Bahadur K. V. Rengaswami Aiyangar.
16. Mr. S. C. H. Robinson.
17. ,, V. S. Subrahmanya Aiyar.
18. ,, C. N. Tuppan Namputiri.
19. ,, A. J. Van Ross.

The motion was carried.

The following motions lapsed for want of time :—

16 F. LAW'S DELAYS COMMITTEE.

Motions 268 to 270.

MR. K. P. NILAKANTA PILLAI :

268. To reduce the allotment of Rs. 10,369 for Law's Delays Committee by Re. 1.

MR. T. J. MATTHEW :

269. To reduce the allotment of Rs. 10,369 for Law's Delays Committee by Rs. 5.

MR. K. I. JOSEPH :

270. To reduce the allotment of Rs. 10,369 for Law's Delays Committee by Rs. 3,120.

Motions 272 to 279.

MR. K. SIVARAMA PANIKKAR :

272. To omit the allotment of Rs. 10,369 for Law's Delays Committee.

MR. G. RAMAN MENON :

273. To omit the allotment of Rs. 10,369 for Law's Delays Committee.

MR. G. NARAYANA PILLAI :

274. To omit the allotment of Rs. 10,369 for Law's Delays Committee.

MR. A. K. PILLAI :

275. To omit the allotment of Rs. 10, 369 for Law's Delays Committee.

MR. K. K. THOMAS :

276. To omit the allotment of Rs. 10,369 for Law's Delays Committee.

MOTIONS UNDER DEMAND XI.

MR. C. P. TARAKAN :

277. To reduce the total allotment of Rs. 7·08 lakhs under Demand XI by Re. 1.

MR. TARIATU KUNJITOMMAN :

278. To reduce the total allotment of Rs. 7·08 lakhs under Demand XI by Rs 5.

MR. G. RAMAN MENON :

279. To reduce the total allotment of Rs. 7·08 lakhs under Demand XI by Rs. 10.

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DEPUTY PRESIDENT: I now put to the vote of the House, Demand XI, Administration of Justice, Judicial Department and Additional Head Sirkar Vakil's Office, Rs. 7·08 lakhs less Rs. 10,369 for Law's Delays Committee.

The motion was carried and the grant was made.

DEMAND XII—ADMINISTRATION OF JUSTICE—HEAD SIRKAR VAKIL'S DEPARTMENT Rs. ·27 lakh.

MR. V. S. SUBRAHMANYA AIYAR (*Head Sirkar Vakil*): Sir, I rise to move for a grant not exceeding Rs. ·27 lakh under Demand XII—Administration of Justice—Head Sirkar Vakil's Department.

16 E. ADMINISTRATION OF JUSTICE—LAW OFFICERS.

Motion 280.

The following motion was deemed not to have been moved as the member was absent:—

MR. A. K. PILLAI:

280. To reduce the allotment of Rs. 14,547 for establishment by Rs. 10.

MOTIONS UNDER DEMAND XII.

Motions 281 to 283.

The following motions were not moved:—

MR. K. P. NILAKANTA PILLAI:

281. To reduce the total allotment of Rs. ·27 lakh under Demand XII by 1 cash.

MR. TARIATU KUNJITOMMAN:

282. To reduce the total allotment of Rs. ·27 lakh under Demand XII by Re. 1.

MR. G. RAMAN MENON:

283. To reduce the total allotment of Rs. ·27 lakh under Demand XII by Rs. 10.

Motion 284.

The following motion was deemed not to have been moved as the member was absent:—

MR. A. K. PILLAI:

284. To reduce the total allotment of Rs. ·27 lakh under Demand XII by Rs. 10.

DEPUTY PRESIDENT: I now put to the vote of the House Demand XII—Administration of Justice—Head Sirkar Vakil's Department—Rs. ·27 lakh.

The motion was carried and the grant was made.

DEMAND XIII—CENTRAL PRISON: Rs. ·87 lakh.

MR. K. GEORGE (*Chief Secretary to Government*): Sir, I move for a grant not exceeding Rs. 87,000 under Demand XIII—Central Prison,

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